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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

23 Cr. 307 (LJL)

5 BRUCE GARELICK,

6 Defendant.

7 -----x

Trial

8 May 1, 2024

9 9:00 a.m.

10 Before:

11 HON. LEWIS J. LIMAN,

12 District Judge
13 and a Jury

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: ELIZABETH A. HANFT

MATTHEW R. SHAHABIAN

18 DANIEL G. NESSIM

Assistant United States Attorneys

19 SHAPIRO ARATO BACH, LLP

20 Attorney for Defendant Garelick

21 BY: ALEXANDRA A. E. SHAPIRO

JONATHAN BACH

22 JULIAN S. BROD

JASON A. DRISCOLL

23 Also Present:

24 Special Agent Marc Troiano, FBI

25 Paralegal Specialist Grant Bianco, USAO

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1 (Trial resumed; jury not present)

2 THE COURT: Okay. We've got all the jurors, but a
3 couple of things before we bring them in. It may have gotten
4 lost in the shuffle, but a couple of days ago, I did direct the
5 parties to meet and confer with respect to the if, as, and when
6 subpoena. I'm not sure whether that has taken place.

7 MS. HANFT: Yes, your Honor. We did meet and confer
8 last night. We didn't submit a letter to the Court because
9 we've had productive discussions and we may not need Court
10 intervention. Ms. Shapiro can correct me if that's not her
11 point of view, but we had this discussion last night.

12 THE COURT: Excellent.

13 MS. SHAPIRO: I think that's—just to correct it
14 slightly, I think the scope of the Court intervention may be
15 narrowed, but I'm not sure we'll agree on everything, but we'll
16 see. We're continuing the discussions.

17 THE COURT: Okay.

18 MS. SHAPIRO: We were going to notify the Court later
19 today.

20 THE COURT: Okay. I would encourage you to do so
21 because if you need a ruling, then I'm prepared to give it to
22 you, but I'm not prepared to entertain a whole lot of arguments
23 about the last-minute burden that production would cause if
24 that is because you haven't brought it to my attention earlier.
25 So try to complete the discussions today so that if there is a

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1 need for Court intervention, we can handle it tomorrow.

2 MS. SHAPIRO: That's fine, your Honor. I just wanted
3 to make sure it was clear.

4 THE COURT: Okay. I also raised with the parties, in
5 particular with the defense, whether the defense would be
6 prepared to stipulate as to certain issues, such as whether the
7 securities at issue were those of a company registered under
8 Section 12 and whether Mr. Garelick had a fiduciary duty to
9 DWAC and its shareholders and whether that was a duty of trust
10 and confidence. Where do things stand with respect to that,
11 Ms. Shapiro?

12 MS. SHAPIRO: Your Honor, we are planning to stipulate
13 to those. We haven't drafted the stipulations yet.

14 THE COURT: Okay. Good.

15 On the charge, what I contemplate is that at the end
16 of the day tomorrow, I will hear from the government their
17 position with respect to the defense's objections to my charge
18 and anything that the government wants to bring to my attention
19 with respect to the charge so that I'm in a position on Friday
20 and over the weekend to consider any needed changes to the
21 charge.

22 With respect to the letter I got this morning, I
23 gather Mr. Swider is not going to be among the first couple of
24 witnesses; is that right?

25 MS. HANFT: That's correct, your Honor, but he will be

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1 testifying today.

2 THE COURT: So what I think we could do is handle the
3 letter after the jury breaks for lunch; maybe let them go out a
4 little bit early, like 12:45. Does that make sense from the
5 government's perspective?

6 MS. HANFT: Yes, your Honor.

7 THE COURT: From the defense's perspective?

8 MS. SHAPIRO: Yes, your Honor. Just the earlier part
9 of the letter, I did—

10 THE COURT: I have that. And with respect to the
11 earlier part of the letter, to the extent clarification of my
12 ruling is necessary, it is permissible for witnesses to testify
13 that they understood that the rules did not permit them to
14 trade on the basis of the information that they had with
15 respect to DWAC's merger negotiations with Trump Media. That's
16 implicit in my ruling with respect to, for example, compliance
17 policies or the confidentiality agreements. Those impose
18 rules, broadly stated, and in the way witnesses express
19 opinions, the line that I've drawn, and I think the law draws,
20 is that witnesses can't testify that they understood that it
21 would be illegal or that the restrictions come from the law
22 under the Securities Exchange Act because that would be a view,
23 an opinion as to the law. So that's my clarification.

24 MS. SHAPIRO: Your Honor, can I just ask two
25 questions. When you say the rules, which rules are you

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1 referring to that they can testify about; you're talking about
2 the compliance policies and things like that?

3 THE COURT: You can inquire on cross-examination on
4 the basis of why they say—

5 MS. SHAPIRO: Well, what if they say, well, I'm
6 talking about the securities laws, and then you'll say—the
7 Court might say, well, we opened the door, or something like
8 that. We don't want that to happen, obviously.

9 THE COURT: But if their view and their understanding
10 is that the way in which they were given this information is
11 that it's confidential and that they can't trade on it, then
12 that's permissible.

13 What's your next point?

14 MS. SHAPIRO: It was a question—well, can we have a
15 standing objection to this so we don't have to jump up every
16 time and object, or is the Court going to insist that we object
17 each time—

18 THE COURT: Just define what your objection is and
19 then—

20 MS. SHAPIRO: Well, the objection is the same
21 objection that we moved *in limine*.

22 THE COURT: But as to somebody testifying with respect
23 to the rules or—

24 MS. SHAPIRO: The rules, their opinions about whether
25 they could trade, their opinions about whether the information

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1 is material, what directors can do and can't do in terms of
2 trading stock, all of those things.

3 THE COURT: I think—basically, I think you should
4 object each time because depending on what the testimony is and
5 the way in which it's expressed, I might sustain the objection.
6 So there are some fine lines here. I don't think witnesses can
7 testify with respect to something being, quote, material. They
8 can testify that it was important, they considered it to be
9 important information, they considered it to be the kind of
10 information that could move the market, that kind of thing.

11 MS. SHAPIRO: One thing that perhaps may inform the
12 Court's understanding of this issue that we haven't discussed
13 before is that the evidence is going to show there actually was
14 no training and no rules in place at the relevant time, and
15 that the rules were put in place later, and so if we ask, what
16 rules are you talking about, it's extremely likely that they'll
17 say, it was my understanding of, like, the law. And so I
18 understand the Court is trying to draw a fine line, but I guess
19 we think it just it's really not a line, because it's clear
20 that what these witnesses are testifying to, at least with
21 respect to the issue of whether they could trade, is a legal
22 opinion.

23 THE COURT: Okay. So I think make the objections at
24 the relevant time, I now understand the basis for the
25 objection, and in fact, it may be sustained, again, depending

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1 on the particular question.

2 Is there anything further that the government wants to
3 say with respect to the alternative tipper theory? I think
4 I've got what I need.

5 MR. BACH: Just a second.

6 (Pause)

7 MS. SHAPIRO: We would ask, can the Court ask the
8 government to inform its witnesses that they should not be
9 testifying that the information was material and not use the
10 word "material."

11 THE COURT: Yes, I will instruct the government to
12 instruct the witnesses to avoid the use of legal terminology,
13 such as "material," or that it would be illegal.

14 MS. HANFT: Does that include nonpublic? I just heard
15 Ms. Shapiro—

16 THE COURT: I said material. Nonpublic is a different
17 concept because it means that it's not public. But I said
18 material and I said legal.

19 All right. Does the government wish to be heard with
20 respect to alternative tipper?

21 Okay. I can give a ruling with respect to alternative
22 tipper.

23 The Court will allow the defense to attempt to pursue
24 its alternative tipper theory. In *United States v. Gupta*, the
25 Second Circuit accepted as sound the "legal premise" that

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1 "another person may have committed the crime with which the
2 defendant is charged." 747 F.3d at 137 (citing *Holmes v. South*
3 *Carolina*, 547 U.S. 319, 327 (2006)). The Circuit in *Gupta* held
4 that the district court acted within its discretion in
5 excluding evidence that the defense asserted would establish
6 that a person other than the defendant was a tipper on grounds
7 of relevance and hearsay. In particular, the district court
8 excluded evidence that a Goldman Sachs salesperson other than
9 the defendant had contacted the alleged tippee and told the
10 alleged tippee that the salesperson had information that was
11 important and urgent. The Circuit sustained the district
12 court's decision because there was no nonhearsay evidence that
13 the salesperson had access to the relevant confidential
14 information, in contrast to the extensive evidence that he
15 would not have had access to such information.

16 In this case, as it has been proffered by the defense,
17 there is nonhearsay evidence, for example, that the putative
18 alternative tipper (Mr. Wachter) had access to the relevant
19 confidential information at the relevant time and communicated
20 with the alleged tippees. If that is so, and there is a
21 foundation in the evidence that Wachter in fact had access to
22 the information at the relevant time and was in touch with the
23 tippees before and in proximate time to the trades, then that
24 would be permissible for the defense to pursue.

25 To be clear, this is a ruling on conditional relevance

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1 based on the proffer by the defense. It does not foreclose any
2 argument by the government that any individual item of evidence
3 should be excluded on Rule 403 or hearsay or other grounds, nor
4 the right of the government to argue that the evidence should
5 be stricken should the defense fail to provide a nonspeculative
6 basis for the jury to connect the dots and to establish the
7 relevance of the evidence from the proof at trial.

8 All right. Do we have the witness ready once the jury
9 comes in? Is the witness here?

10 MR. SHAHABIAN: He's in the witness room outside, your
11 Honor.

12 THE COURT: Any reason we shouldn't put him on the
13 stand right now and then we can call the jury in?

14 MR. SHAHABIAN: I think there's one issue with the
15 jury that my colleague wanted to raise.

16 MS. HANFT: Your Honor, I noticed yesterday that Juror
17 No. 7 doesn't have a screen and appeared to be, like, forced to
18 crouch down and go next to the juror next to her to look at the
19 screen. I wondered if we could reshuffle the jurors so that
20 Juror No. 7 can see the screen more easily.

21 THE COURT: Sounds like a good point. Any problem
22 with that from the defense perspective? I think we're just
23 going to move the jurors one over so that they can all see the
24 screen a little bit more easily.

25 MS. SHAPIRO: That's fine, your Honor.

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Litinsky - Cross

1 THE COURT: Okay. All right.

2 MR. BACH: Judge, can I have 30 seconds before you
3 call the jury in?

4 THE COURT: Just as a comfort break; is that what
5 you're asking for?

6 MR. BACH: Very well put, your Honor.

7 THE COURT: All right. Let's put the witness on the
8 stand and then Mr. Bach can take his 30 seconds, and by the
9 time the witness is on the stand, Mr. Bach will be back and we
10 can call in the jury.

11 (Pause)

12 THE COURT: All right. Let's bring in the jury.

13 (Continued on next page)

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Litinsky - Cross

1 (Jury present)

2 THE COURT: Be seated.

3 Welcome back, members of the jury.

4 Mr. Litinsky, you're advised you're still under oath.

5 Counsel, you may continue.

6 THE WITNESS: Yes.

7 ANDREW DEAN LITINSKY, resumed.

8 DIRECT EXAMINATION

9 BY MR. BACH:

10 Q. Good morning, Mr. Litinsky.

11 A. Good morning.

12 Q. When we left off yesterday, we were talking about the LOI
13 between DWAC on the one hand and Trump Media Group on the other
14 hand, and I was asking you some questions about termination and
15 the walkaway rights that Trump Media Group maintained. Do you
16 remember that?

17 A. Yes.

18 MR. BACH: Can we pull Exhibit 128 back up on the
19 screen.

20 Q. And Mr. Litinsky, I read to you subsection (b), which talks
21 about how the company, in its sole discretion at any time, if
22 it no longer desires to pursue the proposed transaction, can
23 terminate, correct?

24 A. That's correct.

25 Q. And this time, there is a further proviso, correct?

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Litinsky - Cross

1 A. What do you mean by that, sir?

2 Q. Well, this time, do you see a couple lines down, it says,
3 provided, however, that neither the company shall—nor the
4 investor shall terminate this LOI pursuant to clause (b) or (c)
5 prior to the expiration of the exclusivity period, correct?

6 A. I do see that, yes.

7 Q. And there's a 30-day initial exclusivity period here,
8 correct?

9 A. 30 days sounds about right, but I'd have to—yeah.

10 Q. And an option to extend it another—

11 A. Sounds normal; sounds correct.

12 Q. Okay. And those issues, those issues of the extension,
13 those were negotiated down to the wire, correct, to the time
14 this agreement was signed?

15 A. I would agree with that.

16 Q. And that's why a corrected version was sent over to DWAC at
17 the last—on—

18 A. Was that the 45-day, you're talking about, or—

19 Q. Yes.

20 A. That makes sense what you're saying.

21 MR. BACH: Let's pull up 120, Government Exhibit 120
22 again, just so the jury is clear.

23 Q. Do you see on Government Exhibit 120 here, Mr. Litinsky,
24 the language, it says, with the correction to 20—to 45 days in
25 the exclusivity section? Do you see that?

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Litinsky - Cross

1 A. I do see this, yes.

2 Q. Is that what you were just referring to?

3 A. Yes, but it's—I saw this yesterday. That's what jogged my
4 memory. I would not have remembered this unless I saw it
5 yesterday.

6 Q. Okay. Thank you.

7 MR. BACH: Okay. You can put that down, Ms. McFerrin.

8 Q. Now these negotiations about the LOI, about the correction,
9 about any of these matters, to your knowledge, Mr. Garelick was
10 not a participant in any of those negotiations, correct?

11 A. To my knowledge, I just wouldn't know.

12 Q. Well, for instance, you showed us a photograph of people I
13 think at Mar-a-Lago signing this agreement, correct?

14 A. That's correct.

15 Q. You showed us—there were several photographs of that,
16 right?

17 A. That's correct.

18 Q. Mr. Orlando's wife was there?

19 A. Yes.

20 Q. Bruce Garelick wasn't there, right?

21 A. That's correct.

22 Q. Okay. No one was calling him on the phone for his input,
23 correct?

24 A. I would agree with that.

25 Q. Okay. And let's now just talk briefly about after that

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Litinsky - Cross

1 letter of intent is signed. The letter of intent you described
2 on direct as having an exclusivity requirement, correct?

3 A. Yes.

4 Q. But Mr. Trump was not being exclusive, was he?

5 MR. SHAHABIAN: Objection.

6 THE COURT: Basis?

7 MR. SHAHABIAN: Calls for speculation.

8 THE COURT: Overruled. If you know the answer, you
9 can give it.

10 A. There are things I knew then and then there are things I
11 learned later, as far as his commitment to that exclusivity.

12 THE COURT: So you're limited to only what you knew
13 then.

14 THE WITNESS: Then.

15 A. Well, gosh, you know, this is—I mean, this is three years
16 ago, almost, so I—

17 Q. Sure.

18 A. But I get what you're getting at.

19 Q. He was talking to other people, correct?

20 MR. SHAHABIAN: Objection.

21 MR. BACH: Let me back up.

22 THE COURT: Go ahead, Mr. Bach. New question.

23 Q. Okay. The merger agreement was not signed until
24 October 20th, correct?

25 A. I agree with that, yes.

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Litinsky - Cross

1 Q. And on the very day that Mr. Trump—on that very day,
2 October 20th, you were uncertain about whether or not he would
3 sign the deal, correct?

4 A. I would agree with that, yes.

5 Q. And you were uncertain because you understood at that time
6 that DWAC was only one of the deals that he had in the mix at
7 that point in time, correct?

8 A. I would agree with that, yes. I had, once again, some
9 knowledge of what he was up to, but the idea that I knew
10 everything that's in former president Trump's brain, I
11 wouldn't, yeah.

12 Q. Understood.

13 A. Okay.

14 Q. But you did know that he took a call from Jason Miller at
15 Gettr right before the signing, correct?

16 A. Yes, I have—

17 MR. SHAHABIAN: Objection.

18 THE COURT: Basis?

19 MR. SHAHABIAN: Foundation for knowing that the
20 president was speaking with Jason Miller.

21 THE COURT: Do you want to establish a foundation,
22 Mr. Bach.

23 MR. BACH: Sure.

24 BY MR. BACH:

25 Q. You testified yesterday that you had an understanding that

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Litinsky - Cross

1 Mr. Trump would be talking to Gettr after DWAC went public,
2 correct?

3 A. That's correct.

4 Q. And you don't know everything that was on Mr. Trump's mind
5 or on his agenda, correct, but you knew that he was having
6 discussions with Gettr from time to time?

7 MR. SHAHABIAN: Objection.

8 MR. BACH: I'll lay a foundation.

9 THE COURT: Sustained on foundation grounds.

10 Q. Well, did you know on that day that—the day of the
11 signing, October 20th, that Mr. Trump took a call from Jason
12 Miller?

13 A. I believe I do have that memory, yes.

14 Q. Okay. And in fact, on that final day, Mr. Trump asked to
15 meet with you.

16 A. That's correct.

17 Q. And asked to be convinced that this was the way to go,
18 right?

19 A. That's correct.

20 Q. And when you left that room, you weren't sure which way he
21 was going to go, correct?

22 A. I would agree with that.

23 Q. And as it turned out, he did sign on October 20th, correct?

24 A. That's correct.

25 Q. Then the deal, at the close of trading, after the close of

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1 the trading day, was announced to the public.

2 A. Right. He would have signed and then it would have been
3 announced to the public, that's correct.

4 Q. Okay. Now do you know an individual named Eric Swider?

5 A. I do.

6 Q. How long have you known Mr. Swider?

7 A. Eric Swider, I can't remember the exact date when I met
8 him, but he sat on the board of directors of Benessere and
9 DWAC.

10 Q. Okay. And can you give us a sense of the time frame, just
11 a rough approximation of when you—

12 A. Sure. Ballparking—

13 THE COURT: Hold on for a second. Let the lawyer
14 finish the question, and then you can give the answer.

15 I'm not sure, Mr. Bach, that you were done with your
16 question.

17 THE WITNESS: Sorry. Okay.

18 Q. Sure. Could you please give us a ballpark approximation of
19 when you met Mr. Swider.

20 A. The summer of 2021.

21 Q. And did you have dealings with him from time to time
22 through the summer of 2021?

23 A. Yes, I—I would say less than Patrick Orlando, but yes, I
24 remember some interaction.

25 Q. And did you have dealings with him after the summer of

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Litinsky - Cross

1 2021?

2 A. Summer of 2021. Well, I have in general dealt with him.
3 I'm sorry. I don't know how to—could you be a little more
4 specific. I—

5 Q. Perhaps you could just give a general sense, without
6 getting into specifics, of what types of interactions you've
7 had with him.

8 A. So Eric Swider became the new CEO of DWAC, and he—I would
9 say—I met with him in the summer of 2023, and I met with him
10 the beginning of 2024.

11 Q. And how often did you meet with him?

12 A. Not often, but—I'm aware of who he is. I would say I
13 wasn't a frequent, like, guest or friend of his, but I was very
14 aware of his position, and I have met with him, yes.

15 Q. And you've met with him more than once, correct?

16 A. I would agree with that, yes.

17 Q. Okay. And you've spoken to him on multiple occasions,
18 correct?

19 A. Yes.

20 Q. Okay. Do you have an opinion as to his character for
21 honesty and truthfulness?

22 A. I do.

23 Q. What is that opinion, sir?

24 A. I never like to speak ill of other people, but I have—I'm
25 trying to think—being truthful, not a great opinion, as

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Litinsky - Redirect

1 evidenced by I am suing him in Delaware.

2 Q. What is your opinion as to whether he is an honest and
3 truthful person?

4 A. In my opinion, I would regard him as not an honest person.

5 MR. BACH: Can I have one moment, your Honor.

6 Thank you very much, Mr. Litinsky. I have no further
7 questions.

8 THE WITNESS: Okay.

9 THE COURT: Redirect examination.

10 REDIRECT EXAMINATION

11 BY MR. SHAHABIAN:

12 Q. Good morning, Mr. Litinsky.

13 A. Hi, how are you.

14 Q. Good. Thanks for asking.

15 So you remember being asked some questions yesterday
16 and today about the letters of intent that Trump Media executed
17 with Benessere and DWAC?

18 A. Yes, I do.

19 Q. I want to start with the Benessere one that Mr. Bach asked
20 you about.

21 MR. SHAHABIAN: If we could publish Government
22 Exhibit 102.

23 Q. Do you remember this document, Mr. Litinsky?

24 A. I do.

25 Q. Is this the exclusive letter of intent that you discussed

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Litinsky - Redirect

1 yesterday with Mr. Bach?

2 A. Yes, it is.

3 Q. And could you remind the jury, what is an exclusive letter
4 of intent?

5 A. An exclusive letter of intent would be one step further on
6 the commitment side from a nonbinding letter of intent or just
7 a regular letter of intent, so I would say on the degree of
8 seriousness, it would be a letter of intent, an exclusive
9 letter of intent, which could then lead to a merger agreement.

10 MR. SHAHABIAN: If we turn to page 3 of this document,
11 Mr. Bianco. And if we can blow up the top of paragraph 5.
12 Sorry. Exclusivity, say like the first four lines.

13 Q. Is this the exclusivity provision of this document,
14 Mr. Litinsky?

15 A. Yes, it is.

16 Q. How long was the exclusivity period between Benessere and
17 Trump Media in the summer of 2021?

18 A. This reads 90 days, so that would seem correct.

19 Q. What does it mean to have an exclusivity period for 90
20 days?

21 A. In that period, both parties should really, according to
22 the document, be only talking to one another about a potential
23 deal.

24 Q. DWAC—or, sorry—Benessere agreed to only talk to Trump
25 Media about a potential deal?

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Litinsky - Redirect

1 A. Yes.

2 Q. And Trump Media agreed to only talk with Benessere about a
3 potential deal.

4 A. I would agree, that's—

5 Q. That's exclusivity.

6 A. I would agree with that.

7 MR. SHAHABIAN: And if we turn to the next page,
8 Mr. Bianco. And if we highlight paragraph 9.

9 Q. Do you remember discussing this paragraph about termination
10 with Mr. Bach yesterday?

11 A. I do.

12 Q. And do you remember he asked you questions about whether
13 Mr. Trump could just walk away from this agreement?

14 A. I remember that.

15 Q. He asked you questions about the breakup fee provision,
16 right?

17 A. Yeah, yes.

18 Q. Okay. I want to ask you about a part that he didn't talk
19 about.

20 MR. SHAHABIAN: So if we highlight, Mr. Bianco,
21 provided, on line 5, from "provided further that neither the
22 company nor the investor shall terminate this LOI pursuant to
23 clause (b) or (c) prior to the expiration of the exclusivity
24 period."

25 A. Okay.

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1 Q. Do you see the highlighted portion of this, Mr. Litinsky?

2 A. I do.

3 Q. Under this agreement, could Trump Media terminate this
4 letter of intent before the 90-day exclusivity period expired?

5 A. The reading of this would be no, we could not.

6 Q. So after the 90 days, it could be terminated.

7 A. I would agree with that reading, yes.

8 Q. But not before then.

9 A. I would agree with that.

10 Q. Was this agreement ultimately terminated?

11 A. Yes, it was.

12 Q. Do you remember Mr. Bach asked you questions about whether
13 Mr. Trump could just unilaterally walk away from the deal?

14 A. I do remember him asking, yes.

15 Q. Do you remember if this was a mutual termination or
16 unilateral termination?

17 A. I—I know because I see it in writing here. At the time, I
18 would have to look at it in writing, yeah.

19 MR. SHAHABIAN: Okay. So if we could publish
20 Government Exhibit 122.

21 Q. Do you see this document, Mr. Litinsky?

22 A. I do.

23 Q. What is this?

24 A. This would be the termination of Benessere, the SPAC
25 Benessere.

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Litinsky - Redirect

1 MR. SHAHABIAN: And if we highlight the first
2 paragraph, Mr. Bianco, if we could blow that up.

3 Q. Do you see, Mr. Litinsky, where it refers to the
4 termination and mutual release agreement with respect to the
5 letter of intent entered into by Benessere, Trump Media, and
6 Patrick Orlando on or about June 4th?

7 A. I do see that, yes.

8 Q. What do you understand this document to be?

9 A. My understanding is that this is just a way that the
10 parties are saying the Benessere deal is being terminated,
11 being released, we're going our separate way in regards to
12 Benessere.

13 Q. And is that something that Mr. Trump decided unilaterally
14 or was that a mutual termination?

15 A. That's a good question. In the sense—

16 Q. Let me direct your attention to right below. It says,
17 "Each of the parties hereby agrees to terminate the LOI by
18 mutual agreement as provided under Section—"

19 A. That's a better way to say it.

20 MR. BACH: Judge, objection to the leading.

21 THE COURT: Overruled, but avoid leading.

22 MR. SHAHABIAN: Yes, your Honor.

23 A. I do see this, yes.

24 Q. What does this mean?

25 A. I—it would be a mutual agreement. So if asked was it

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1 Donald Trump or was it Patrick Orlando, I would say it was
2 mutual, after reading this.

3 MR. SHAHABIAN: If we could publish Government
4 Exhibit 120.

5 Sorry. Government Exhibit 128. Thank you,
6 Mr. Bianco.

7 Q. Do you remember this document, Mr. Litinsky?

8 A. Yes, very well.

9 Q. What is this?

10 A. This is the merger agreement, or the cover page, at least.

11 Q. This is the merger agreement that was signed on what date?

12 A. October 20th of 2021.

13 Q. And do you recall Mr. Bach asking you on cross-examination
14 this morning questions about Mr. Trump hesitating before
15 signing this agreement?

16 A. I do, yes.

17 Q. Was he under a commitment to sign the agreement before he
18 signed it?

19 A. No, he was not.

20 Q. Did you discuss any of Mr. Trump's hesitation with Patrick
21 Orlando or anybody on the DWAC side of the merger negotiations?

22 A. Can you be more specific about that.

23 Q. Sure. So on October 20th, you recall Mr. Bach asked you
24 about a conversation you had with Mr. Trump about "why I should
25 sign this agreement"?

0511GAR1

Litinsky - Redirect

1 A. Yes, that would have been in Mr. Trump's office in
2 Mar-a-Lago, yes.

3 Q. Did you tell anyone from DWAC about that before he signed
4 the agreement?

5 A. When you say when I—there was a period of time when I
6 walked down after that meeting and the room was just a bunch of
7 people. Could I have mentioned my uncertainty? That's
8 possible, yes.

9 Q. Did he ultimately sign the agreement?

10 A. He did, yes.

11 Q. Did this agreement cause the merger to actually happen?

12 A. So the merger is subject to SEC and government
13 effectiveness, so I guess it's parsing of words, but I would
14 say yes, this document is both parties signing and telling the
15 world that the intent is to merge, pending typical government
16 approvals.

17 Q. When did the parties actually merge?

18 A. When you say merge, do you mean SEC effectiveness of the S4
19 or do you mean merge as a ticker symbol change? I'm not trying
20 to be difficult; I just—they could mean different things.

21 Q. Sure. I mean when they actually became one company; do you
22 know when that happened?

23 A. I would think the close, which would be the filing of a
24 Delaware certificate. To my memory, that happened, I think it
25 was 8:19 a.m. on March 25th of 2024.

O511GAR1

Litinsky - Recross

1 Q. 2024?

2 A. Yes.

3 Q. So several years after this was signed.

4 A. Yes.

5 Q. Is it possible for a merger agreement to not go through
6 even after an agreement like this is signed?

7 A. Can you repeat that.

8 Q. Sure. Is it possible that an agreement like this would not
9 result in an actual merger until all the approvals are
10 finalized?

11 A. Right. There could be all sorts of reasons why something
12 may not close, so to speak, and the listing would change.
13 There could be many things.

14 MR. SHAHABIAN: If I could have one moment, your
15 Honor.

16 THE COURT: Okay.

17 MR. SHAHABIAN: Nothing further, your Honor.

18 THE COURT: Mr. Bach?

19 MR. BACH: Yes. One moment, your Honor.

20 RE CROSS EXAMINATION

21 BY MR. BACH:

22 Q. Very briefly, Mr. Litinsky.

23 A. I'm at the Court's pleasure.

24 Q. Thank you.

25 MR. BACH: Can we pull up Government Exhibit 122

O511GAR1

Litinsky - Recross

1 again.

2 Q. Do you recall Mr. Shahabian just asked you some questions
3 about this document?

4 A. I do, yes.

5 Q. Do you see the date on top? It's September 1, 2021?

6 A. I do, yes.

7 Q. And by the way, you don't know—

8 MR. BACH: Can we go down to the bottom of this
9 document. Can I just see the bottom of the document for a
10 second. Keep going to the signature page.

11 Can I see the signature page.

12 Q. Do you know the date on which this document was actually
13 signed?

14 A. I would think in mid to late September.

15 Q. Not on September 1st, correct?

16 A. I believe that's correct. That's all in the public
17 disclosures, yeah.

18 Q. And in fact, if you have good eyesight and you look at that
19 little line towards the bottom of the page, do you see where it
20 says 8:40 p.m., September 21, 2021?

21 A. I do see that. I don't know if that's when it was
22 transmitted or signed, but I do see that date.

23 Q. Well, do you have an understanding that this document was
24 actually backdated?

25 A. I do now, yes.

O511GAR1

Litinsky - Recross

1 Q. Okay. Now earlier today and yesterday, you were asked
2 questions about during this period of exclusivity, whether
3 Mr. Trump was talking to others about a possible deal.

4 A. I do remember that, yes.

5 Q. Now did you know that Mr. Orlando was also talking to
6 people about approaching Trump Media Group through an
7 altogether different SPAC?

8 MR. SHAHABIAN: Objection.

9 THE COURT: Sustained.

10 Q. Do you know whether Mr. Orlando was observing and honoring
11 the so-called exclusivity of this agreement?

12 MR. SHAHABIAN: Objection.

13 THE COURT: Sustained.

14 MR. BACH: Could we have just a brief sidebar.

15 THE COURT: Sure.

16 (Continued on next page)

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O511GAR1

Litinsky - Recross

1 (At the sidebar)

2 MR. BACH: I just—I don't understand the basis so
3 it's hard for me to adjust my questioning. So it might be that
4 there's no adjustment, but I just want to make sure I
5 understand.

6 THE COURT: Let me hear from Mr. Shahabian.

7 MR. SHAHABIAN: The objection is it's a combination of
8 foundation and hearsay if he was actually talking to other
9 people. It depends how the witness knows that. If that's
10 because he was told that Patrick Orlando was talking to other
11 people, then that's hearsay. So to ask him does he know
12 something both calls for how he knows that and whether it's
13 admissible.

14 MR. BACH: Well, I was asking him an open-ended
15 question to that effect to see if there was a foundation for
16 the questions. I said, do you know whether Mr. Orlando was
17 talking to other people, and if the answer is no, of course I
18 will stop.

19 THE COURT: If the answer is yes, the next question
20 would be, how do you happen to know that information as to
21 whether he was talking to other people, and then we'll take it
22 piece by piece?

23 MR. BACH: Yeah.

24 THE COURT: All right.

25 MR. BACH: Okay.

0511GAR1

Litinsky - Recross

1 (In open court)

2 BY MR. BACH:

3 Q. Mr. Litinsky, just let me repeat the question.

4 A. Okay.

5 Q. Do you know whether Mr. Orlando was talking to other people
6 or other parties during this exclusivity period?

7 A. When you say other parties, do you mean other operating
8 companies?

9 Q. Or other—about having other SPACs approach Trump Media
10 Group.

11 A. I know from my knowledge Patrick Orlando had one futures
12 SPAC, and we only spoke to that SPAC after it became public.

13 Q. And that SPAC was DWAC, correct?

14 A. That's correct, yes.

15 Q. And this was—this document was backdated from
16 September 21, correct?

17 A. Well, at the bottom here it says September 21; at the top
18 of the document it says September 1st, that's correct.

19 Q. Were there discussions between DWAC and Trump Media Group
20 during this so-called exclusivity period?

21 A. So if I may, if you're asking the question between
22 September 1st and September 21st, were there conversations with
23 DWAC, I would say yes in the sense to my memory, DWAC went
24 public approximately September 8th or 9th and after that point
25 is when the negotiations would happen.

O511GAR1

Wasko - Direct

1 MR. BACH: All right. Thank you, Mr. Litinsky.

2 THE WITNESS: Sure.

3 THE COURT: Mr. Shahabian, anything?

4 MR. SHAHABIAN: No, your Honor.

5 THE COURT: You're excused a as a witness. Thank you.

6 THE WITNESS: Thank you.

7 (witness excused)

8 THE COURT: The government will call its next witness.

9 MR. NESSIM: The government calls Hartley Wasko.

10 THE COURT: Okay. Mr. Wasko can be brought into the
11 courtroom and take the witness stand.

12 Mr. Wasko, please step forward into the witness box.
13 And remain standing when you enter the witness box. My deputy
14 will give you the oath.

15 THE DEPUTY CLERK: Please raise your right hand.

16 (Witness sworn)

17 THE DEPUTY CLERK: Thank you. Please state your full
18 name for the record and please spell out your first and last
19 name.

20 THE WITNESS: Hartley Wasko.

21 THE COURT: Mr. Wasko, please try to keep your voice
22 up, speak into the microphone, and please make sure to wait
23 until the questioner is done with the question before you
24 answer.

25 THE REPORTER: Can you spell your name for me.

0511GAR1

Wasko - Direct

1 THE WITNESS: H-A-R-T-L-E-Y, W-A-S-K-O.

2 HARTLEY WASKO,

3 called as a witness by the Government,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. NESSIM:

7 Q. Good morning, Mr. Wasko.

8 A. Good morning.

9 Q. In what city do you live?

10 A. Denver, Colorado.

11 Q. How old are you?

12 A. I'm 31.

13 Q. And what's your educational background?

14 A. I have a bachelor's degree from the University of Arizona.

15 Q. What do you currently do for work?

16 A. I—excuse me. I manage a family office.

17 Q. And what does that mean that you manage a family office?

18 A. It's another vehicle to make investments through, so I
19 manage a portfolio of investments with just a single family's
20 money.

21 Q. And what's your title?

22 A. I'm the manager.

23 Q. What's the name of your company?

24 A. The Eleven Fund.

25 Q. And as an investor with the Eleven Fund, what sort of

O511GAR1

Wasko - Direct

1 investments do you make?

2 A. Primarily investments into private companies, either
3 companies that are more robust and well known, that are private
4 and have plans to do an IPO or a path to some M&A, or we get
5 involved in private companies at a much earlier stage and try
6 to help guide them to that path but in a longer time horizon.

7 Q. You mentioned private companies. What is a private
8 company?

9 A. Private company is a business, a company that's not yet
10 listed on the exchange, the NASDAQ and New York Stock Exchange,
11 something of that nature.

12 Q. You mentioned IPO. What is an IPO?

13 A. IPO is an initial public offering, so that's your
14 transition from private to public.

15 Q. And for approximately how long have you served in this role
16 as an investor?

17 A. About 11 years.

18 Q. Are you familiar with the entity Rocket One?

19 A. I am.

20 Q. What is that?

21 A. That's Michael Shvartsman's investment company.

22 MR. NESSIM: Mr. Bianco, can you please publish just
23 for the witness and the parties what's been marked for
24 identification as Government Exhibit 2.

25 Q. Mr. Wasko, do you recognize this exhibit?

O511GAR1

Wasko - Direct

1 A. Yes.

2 MR. NESSIM: Your Honor, I believe a juror raised
3 their hand.

4 JUROR: We cannot see.

5 THE COURT: As a reminder, you're not intended to see
6 the exhibits until actually I say it's in evidence, so don't
7 worry about it.

8 JUROR: Sorry. I forgot.

9 THE COURT: No, no. That's okay.

10 Go ahead.

11 BY MR. NESSIM:

12 Q. What does this exhibit show, Mr. Wasko?

13 A. It's a picture of Michael Shvartsman.

14 Q. Is it a fair and accurate depiction of Mr. Shvartsman?

15 A. Yes.

16 MR. NESSIM: The government offers Government
17 Exhibit 2.

18 THE COURT: Any objection?

19 MR. BACH: None.

20 THE COURT: All right. It's received, and it can now
21 be published to the jury.

22 (Government's Exhibit 2 received in evidence)

23 MR. NESSIM: May I have one moment, your Honor.

24 THE COURT: Of course.

25 (Continued on next page)

O51Cgar2

Wasko - Direct

1 BY MR. NESSIM:

2 Q. Mr. Wasko, you mentioned this is Mr. Shvartsman. How did
3 you meet Michael Shvartsman?

4 A. I met Michael through a company we were both mutually
5 invested in, and they introduced us.

6 Q. What company was that?

7 A. It's called Gopuff.

8 Q. Approximately when was that introduction?

9 A. Mid 2018, I believe.

10 Q. And why were you introduced to Mr. Shvartsman?

11 A. Just people that had like-minded interests into what they
12 were looking to invest in. So people thought that there would
13 be some synergies there for business.

14 Q. What do you understand about Michael Shvartsman's business
15 line of work?

16 A. I understand that he's very successful and he has a core
17 focus outside of these investments. And then my understanding
18 was that, you know, this Rocket was more of a family office for
19 him to invest in other businesses.

20 Q. From the time that you met Mr. Shvartsman in 2018, what
21 sort of relationship did you develop with him?

22 A. We became -- so we started investing in one private company
23 alongside each other. From there, we continued to speak,
24 enhance our relationship. We became pretty close. We bounced
25 ideas off each other a lot. A lot of potential opportunities,

051Cgar2

Wasko - Direct

1 always trying to see if we were looking at things a similar way
2 or there was an appetite to invest in something. And, yeah, an
3 ongoing direct line of communication.

4 Q. What's the rough type and number of investments that you
5 made alongside Rocket One?

6 A. A handful. But somewhere between 5 and 10ish.

7 Q. In fall of 2021, approximately how frequently were you
8 speaking with Michael Shvartsman?

9 A. In 2021, we were speaking on a regular basis, multiple
10 times a week, showing each other potential opportunities.

11 MR. NESSIM: Mr. Bianco, you can take this down
12 please. Can you publish just for the witness what's been
13 marked as Government Exhibit 1.

14 Q. Mr. Wasko, do you recognize the person in this photograph?

15 A. Yes.

16 Q. Who is it?

17 A. It's Bruce Garelick.

18 Q. Is it a fair and accurate depiction of Mr. Garelick.

19 A. Yes.

20 MR. NESSIM: The government would offer Government
21 Exhibit 1.

22 MR. BACH: No objection.

23 THE COURT: It's received.

24 (Government's Exhibit 1 received in evidence)

25 MR. NESSIM: Mr. Bianco, we can publish this to the

051Cgar2

Wasko - Direct

1 jury please.

2 Q. Mr. Wasko, how do you know Mr. Garelick?

3 A. I met him through Michael because he was working with
4 Michael.

5 Q. Do you see Mr. Garelick in the courtroom today?

6 A. Yes.

7 Q. Can you please just identify him based on where he's
8 sitting or an item of clothing that he's wearing.

9 A. I can't see clothing, but I see him in the back. There he
10 is.

11 THE COURT: The record should reflect the witness has
12 identified the defendant.

13 Q. Mr. Wasko, you mentioned he worked with Michael Shvartsman.
14 Approximately when did you meet him?

15 A. I met him in 2021, I believe.

16 Q. In what capacity did he work with Michael Shvartsman?

17 A. He was the CIO. That was my understanding, at least, of
18 the investment business.

19 Q. What does CIO mean?

20 A. Chief investment officer. He was really the brains,
21 experience, on a lot of these types of investments and
22 projects.

23 Q. What sort of context would you interact with Mr. Garelick?

24 A. Pretty regularly, as well. I used him to bounce ideas off
25 of, as well, due diligence on potential opportunities semi

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Wasko - Direct

1 frequently. I utilized him for his diligence as much as I
2 could.

3 THE COURT: Mr. Nessim, your questions previously were
4 what capacity did Michael Shvartsman have. Michael Shvartsman
5 was the chief investment officer. Was that what you intended
6 to ask?

7 MR. NESSIM: No, I'm sorry. In what capacity did he
8 work with Michael Shvartsman, I thought was the question.

9 THE COURT: Okay. Go ahead.

10 Q. Sorry. What was Mr. Garelick's role with Michael
11 Shvartsman's business?

12 A. The chief investment officer.

13 Q. You and you mentioned you would speak with him frequently
14 and bounce ideas off of him. What was your impression of
15 Mr. Garelick over the course of those conversations?

16 A. My impression was he was extremely sharp, extremely
17 experienced, well versed in his process, and just a great mind
18 to be able to work through things with.

19 MR. NESSIM: Mr. Bianco, you can take this down and
20 please publish just for the witness what's been marked as
21 Government Exhibit 3.

22 Q. Mr. Wasko, do you recognize the person in this photograph?

23 A. I do.

24 Q. Who's that?

25 A. That's Gerald Shvartsman.

O51Cgar2

Wasko - Direct

1 Q. Is that a fair and accurate depiction of Gerald Shvartsman?

2 A. It is.

3 MR. NESSIM: The government offers Government
4 Exhibit 3.

5 MR. BACH: No objection.

6 THE COURT: Received.

7 (Government's Exhibit 3 received in evidence)

8 MR. NESSIM: Mr. Bianco, please publish that for the
9 jury.

10 Q. Mr. Wasko, you mentioned this is Gerald Shvartsman. How
11 did you meet Gerald Shvartsman?

12 A. I met him through Michael.

13 Q. What's the relationship between Michael and Gerald
14 Shvartsman?

15 A. They're brothers.

16 Q. And do you know what Gerald Shvartsman does for work?

17 A. Yes. He's in the furniture business.

18 MR. NESSIM: Mr. Bianco, you can take that down,
19 please.

20 Q. Mr. Wasko, are you familiar with the name Eric Cornelius?

21 A. I am.

22 Q. Who is that?

23 A. Another friend, business associate of Michael's.

24 Q. Turning your attention to around June of 2021, what, if
25 any, investment opportunity did Michael Shvartsman bring to

051Cgar2

Wasko - Direct

1 your attention?

2 A. The opportunity in June was the opportunity to invest in
3 the founder shares of DWAC, this SPAC.

4 Q. So just to break down some of that. You mentioned DWAC.
5 What is DWAC?

6 A. DWAC was the four letter symbol. It was digital world
7 acquisition company, I believe. It's a SPAC that was very
8 prevalent in 2021. A lot of SPACs were trading in the market.

9 Q. And what's a SPAC?

10 A. A SPAC is essentially an empty shell company that has a
11 treasury of capital. Their job is to find a private company to
12 acquire and merge them into their shell, essentially.

13 Q. And you mentioned that Michael Shvartsman approached you
14 about a founder share investment. What are founder shares?

15 A. Founder shares are an opportunity to invest in that SPAC at
16 an earlier round, which means at a cheaper price. There was an
17 interesting opportunity given the time in the market.

18 Q. When Mr. Shvartsman approached you about this deal, what
19 did he tell you about DWAC?

20 A. He told me that we would have a call and hear the pitch,
21 essentially.

22 Q. And so, what happened next with relation to a possible
23 investment in DWAC?

24 A. There was a call scheduled and it was led by the people
25 directly from DWAC. The person that led the pitch, his name

051Cgar2

Wasko - Direct

1 was Patrick Orlando. We heard out what his plan was.

2 Q. Approximately when was that call?

3 A. That was late -- the latter half of June in 2021.

4 Q. Do you remember who was on that call in addition to
5 yourself and Patrick Orlando?

6 A. I know Michael was on it. I know other people were on it,
7 but Michael is the one I know for sure.

8 Q. What happened during that call?

9 A. Well, we heard that the target was the Trump social media
10 platform and that, you know, he was very confident in his
11 pitch, that that was really the main target, and he was
12 confident that that was going to be the case. It was just
13 really about how great of an opportunity this was and we should
14 be excited.

15 Q. The Trump social media platform, do you know what that
16 company was called?

17 A. Truth Social.

18 Q. Do you remember more specifics about what Mr. Orlando was
19 saying or how he was saying it?

20 A. I mean, he was very confident, like I said, almost -- I
21 mean, arrogant to the point where he was just, like, this was
22 really our target. And he was convinced that that's the only
23 path forward that they needed to be talking about.

24 Q. Were other potential targets mentioned during that
25 conversation?

051Cgar2

Wasko - Direct

1 A. I don't remember.

2 Q. What, if anything, did you sign as part of this meeting or
3 phone call?

4 A. We signed NDAs.

5 MR. NESSIM: Mr. Bianco, can you please publish what's
6 in evidence as Government Exhibit 212. You can just zoom into
7 the top of this agreement, maybe the first two paragraphs.
8 This is a document entitled "Confidentiality Agreement."

9 Q. Just turning your attention to the first paragraph there --

10 MR. NESSIM: Mr. Bianco, if you could just highlight
11 that.

12 Q. Mr. Wasko, who's this confidentiality agreement between?

13 A. Benessere Capital Acquisition Corp. and myself.

14 Q. Do you know what Benessere Capital Acquisition Corp. is?

15 A. Not exactly. I know it was either a parent company or the
16 affiliated company with DWAC.

17 MR. NESSIM: Mr. Bianco, can we just turn to the last
18 page of this exhibit, please.

19 Q. Whose signatures are these on the agreement?

20 A. Patrick Orlando and myself.

21 MR. NESSIM: Mr. Bianco, you can take that down,
22 please.

23 Can you please publish what's in evidence as
24 Government Exhibit 211. Let's just zoom into the top of this,
25 please.

051Cgar2

Wasko - Direct

1 Mr. Bianco, can you take this down for one moment.

2 Mr. Bianco, you can publish Government Exhibit 211
3 again. Let's just zoom into the top here.

4 Q. Who is this confidentiality agreement between?

5 A. Arc global investments, Digital World Acquisition Corp, and
6 myself.

7 Q. Do you know what ARC Global Investments is?

8 A. Yes. That was the vehicle that the founder shares were
9 invested into.

10 Q. And just generally, what are these two agreements that we
11 just looked at?

12 A. They're confidentiality agreements that essentially are
13 saying you can't talk about what you were just pitched on or
14 heard about or invested in, and you can't circumvent them.
15 It's just -- it's between you and the group on the call,
16 essentially.

17 Q. Are confidentiality or nondisclosure agreements like this
18 common in your business?

19 A. Yes.

20 MR. NESSIM: Mr. Bianco, can you zoom out and turn to
21 the last page of this exhibit.

22 Q. Who signed this agreement?

23 A. Patrick Orlando and myself.

24 MR. NESSIM: Mr. Bianco, we can take this down,
25 please.

051Cgar2

Wasko - Direct

1 Q. Mr. Wasko, what is your understanding of the nature of the
2 information that you learned over the course of this phone
3 call?

4 A. My understanding was that this company had a plan to
5 acquire Truth Social, and we had the opportunity to invest in
6 the founders round of it. Really, that was the basis of the
7 call.

8 Q. What was your understanding about whether that information
9 was something generally available or confidential?

10 A. It was confidential.

11 MR. NESSIM: At this time, your Honor, I'd like to
12 offer a stipulation between the parties as joint exhibit 2. It
13 pertains to email communications.

14 THE COURT: Okay.

15 MR. NESSIM: No objection?

16 Is it received, your Honor?

17 THE COURT: It's received.

18 (Joint Trial Exhibit 2received in evidence)

19 MR. NESSIM: You can publish this to the jury, please,
20 Mr. Bianco. I'll take a moment to summarize this.

21 This is a stipulation between the government and
22 Mr. Garelick relating to emails and communications. I'll just
23 read that, in paragraph 1, a number of communications that are
24 identified there, Government Exhibits 204, 207, 210, 213, and
25 400 through 488 are true and correct copies of email

O51Cgar2

Wasko - Direct

1 communications, and that the sender, recipient date and time
2 information in those exhibits are true and correct
3 representations of those data fields in the relevant accounts.

4 Mr. Bianco, if you can turn to page 2. This is signed
5 by the parties, dated April 30th.

6 We can take this down, please.

7 At this time, the government would offer a number of
8 those email exhibits.

9 Mr. Bianco, can you please publish just for the
10 witness and the parties what's been identified as Government
11 Exhibit 409. If you can zoom into the portion of this page
12 that has "content."

13 The government offers Government Exhibit 409.

14 THE COURT: Any objection?

15 MR. BACH: None.

16 THE COURT: Received.

17 (Government's Exhibit 409 received in evidence)

18 MR. NESSIM: Let's publish this to the jury, please,
19 Mr. Bianco.

20 Q. Mr. Wasko, turning your attention to this exhibit on the
21 screen, this is an email. Who is it from?

22 A. It's from Bruce Garelick.

23 Q. What's Mr. Garelick's email address?

24 A. Bruce@rocketonecapital.com.

25 Q. Who is it sent to?

051Cgar2

Wasko - Direct

1 A. To myself.

2 Q. What was the date of this email?

3 A. June 24th, 2021.

4 Q. What is the subject line?

5 A. Heart dash Trump SPAC.

6 Q. What is Trump SPAC a reference to? What was your
7 understanding of what a Trump SPAC was a reference to?

8 A. The founder shares from the call we had.

9 Q. Why did you understand that Trump SPAC meant that call?

10 A. Because that was the target from the call.

11 Q. And then the message here says, Hart, we are finalizing our
12 investment in this SPAC. Parenthesis, founder shares and IPO
13 shares. Michael, parenthesis, Rocket One, is inclined to
14 invest 800k split evenly between the \$4 founder shares and the
15 \$10 IPO shares. Please let me know if you want to invest in
16 sizing. Feel free to call me if you want to discuss further.
17 Thanks, Bruce.

18 What's your uncles of what Bruce was asking in this
19 email or Mr. Garelick was asking in this email?

20 A. He was asking for commitments of interest into the founders
21 share opportunity. He was explaining what Rocket was prepared
22 to do.

23 Q. Why was he asking you for your interests?

24 A. Because I was on that call.

25 MR. BACH: Objection.

O51Cgar2

Wasko - Direct

1 THE COURT: What was your understanding as to why he
2 was asking you. Go ahead.

3 A. My understanding was that because I was on the call, if I
4 was interested in participating or not.

5 Q. What happened next in relation to DWAC after this phone
6 call and email?

7 A. Afterwards, you know, similar conversations with Michael
8 and/or Bruce, just understanding the opportunity and deciding
9 if I was going to participate or not.

10 Q. What did you decide to do?

11 A. I ended up deciding to make the investment and, yeah.

12 MR. NESSIM: Mr. Bianco, you can take this exhibit
13 down, please.

14 Q. How did you communicate that you decided to make the
15 investment?

16 A. I believe both verbally and the email.

17 MR. NESSIM: Mr. Bianco, can you please pull up just
18 for the witness and parties what's been marked for
19 identification as Government Exhibit 410.

20 Mr. Bianco, can you scroll up to the page 2 of 3,
21 please.

22 MR. BACH: No objection.

23 THE COURT: Received.

24 (Government's Exhibit 410 received in evidence)

25 MR. NESSIM: If you can blow up the portion of this

051Cgar2

Wasko - Direct

1 email from the header information to the sign-off from the
2 person --

3 THE COURT: It's received in evidence. Do you want it
4 to be published to the jury?

5 MR. NESSIM: Yes. Excuse me. Please publish it,
6 Mr. Bianco.

7 Q. Mr. Wasko, just turning your attention to this email here.
8 Can you read who sent this email.

9 A. Horacio Cruz.

10 Q. What was the date of the email?

11 A. June 28th, 2021.

12 Q. Can you read the parties who it was sent to?

13 A. To patrick Orlando, Bruce Garelick, and it was cc'd to a
14 bunch of people, myself being one of them.

15 Q. If you can read those names. Who else was on the cc line?

16 A. Patrick Orlando, Hartley Wasko, Michael Shvartsman, Natalie
17 Salume, Marc Wachter, Alex Monje, and I believe that's it.

18 Q. And what's the subject line of the email?

19 A. Patrick - Rocket One Capital - investment followup.

20 Q. And the email is addressed, Dear Bruce and Rocket One team.
21 What did you understand that address meant?

22 A. That it was to everyone from the call, or I'm assuming
23 everyone from the call, that was being introduced from or by
24 Rocket One.

25 Q. That's the Rocket One team?

051Cgar2

Wasko - Direct

1 A. Right.

2 Q. The email says, to recap your investment in ARC Global
3 Investments II LLC, 1, 1.5M investment in the sponsor promote
4 at a \$4 price per share, resulting in LLC interests equivalent
5 to 375,000 founder shares, parenthesis, class B stock. Do you
6 know what that means?

7 A. I believe that just is confirming the total investment for
8 the entire founders share round.

9 Q. For the Rocket One team?

10 A. Right.

11 Q. That's total investment of \$1.5 million at a \$4 price per
12 share?

13 A. Right.

14 Q. And that is equivalent to 375,000 founder shares?

15 A. That's correct.

16 Q. And then it has point 2 is bonus of LLC interests
17 equivalent to 50,000 founder shares class B stock. And then
18 point 3, one board seat on the SPAC. What did you understand
19 that meant?

20 A. I understood that meant that a requirement for the
21 investment was to have someone from the Rocket side sit on the
22 board of the SPAC.

23 Q. Was that board seat actually obtained as part of Rocket
24 One's investment?

25 A. Yes, by Bruce.

O51Cgar2

Wasko - Direct

1 Q. What was by Bruce?

2 A. He was on the board. He was the one that took the seat.

3 Q. And what is your understanding or what was your
4 understanding as to why Mr. Garelick was able to take that
5 seat?

6 MR. BACH: Objection. Lack of foundation. Vague.

7 THE COURT: Sustained. Why don't you establish a
8 foundation.

9 Q. So just to take you back to this email. Mr. Cruz writes
10 that, to recap your investment, one feature, No. 3, is one
11 board seat on the SPAC. Did you have any understanding as
12 to --

13 First of all, just to repeat again, what does that
14 mean, one board seat on the SPAC?

15 A. Means that Rocket could appoint someone to the board as a
16 requirement in order to finalize their investment for the
17 founders round.

18 Q. Did you have an understanding as to why Rocket or Rocket
19 One was able to appoint someone to the board or why they were
20 able to get this condition?

21 A. Yes. I mean, it was -- when you make investments, there's
22 a lot of cases where, you know, you're expecting one thing, but
23 it goes a different way, and this was an added layer of
24 protection to ensure that there was nothing, you know, not that
25 we signed up for that could be going down. It just is an extra

051Cgar2

Wasko - Direct

1 set of eyes to make sure that we were going to be further
2 protected.

3 MR. NESSIM: Mr. Bianco, you can take this down,
4 please.

5 Can you please just publish for the witness and
6 parties what's been marked as Government Exhibit 433.

7 The government offers Government Exhibit 433.

8 THE COURT: Any objection, Mr. Bach?

9 MR. BACH: No.

10 THE COURT: Received.

11 (Government's Exhibit 433 received in evidence)

12 MR. NESSIM: Mr. Bianco, can you please publish this
13 to the jury.

14 Q. Mr. Wasko, who is this email from?

15 A. From Bruce.

16 Q. Who is it to?

17 A. To myself.

18 Q. What's the date of this email?

19 A. June 30th, 2021.

20 Q. Who is in the cc line of this email?

21 A. Patrick Orlando, Alex Monje, Horacio Cruz, Natalie Salume,
22 Michael Shvartsman.

23 Q. And what is it that Bruce wrote to you?

24 A. Hartley, I am pleased to introduce you to the team at
25 Digital World Acquisition Corp. They will guide you through

051Cgar2

Wasko - Direct

1 the investor subscription process. I have you down for 250K of
2 the founder shares class B stock and 250K of IPO stock class A.
3 Note you have the option of the \$4 class B stock we discussed
4 or alternatively a \$5 class B founder stock with a 45-day
5 notice redemption notice. Difference between the two being
6 some added liquidity in exchange for a higher price. You can
7 follow up with the DWAC team directly if you have any
8 questions. Of course, feel free to give me a call if you want
9 to discuss further. Best, Bruce.

10 Q. Just turning your attention to the second paragraph of this
11 email. I have you down for 250K of the founder shares and 250K
12 of the IPO stock. What does that mean?

13 A. That was just confirming my investment that I committed to
14 in the founders shares of DWAC.

15 Q. And what investment did you actually end up making in DWAC?

16 A. I only ended up doing the founder shares. I did not end up
17 doing the IPO shares additionally.

18 Q. And approximately what portion of founder shares or what
19 value of founder shares?

20 A. 250,000.

21 MR. NESSIM: Mr. Bianco, we can take this exhibit
22 down, please.

23 Can you please publish for the witness and parties
24 what's been marked as Government Exhibit 484.

25 Mr. Bianco, can you turn to the second page, please.

051Cgar2

Wasko - Direct

1 MR. BACH: No objection.

2 THE COURT: Received.

3 (Government's Exhibit 484 received in evidence)

4 MR. NESSIM: Mr. Bianco, please publish this for the
5 jury and let's just highlight the top email there. Not
6 highlight. Zoom in, please.

7 Q. Mr. Wasko, who is this email from?

8 A. From Hartley Wasko, myself.

9 Q. Who is it to?

10 A. Alex Monje and Bruce.

11 Q. What's the date of this email?

12 A. July 7th, 2021.

13 Q. Just generally speaking, what is it that you're
14 communicating in this email?

15 A. I'm confirming the 250,000 into the founder shares at the
16 \$5 option. Then I ask a question about an alternative way of
17 doing the IPO shares which ultimately did not end up happening,
18 which is why I didn't go through with that investment.

19 MR. NESSIM: Mr. Bianco, you can take this exhibit
20 down, please.

21 Q. Mr. Wasko, of the founder shares that you invested, do you
22 know whether or not there were any limitations on how you could
23 sell those shares?

24 A. Well, yes. Essentially, it was like investing in a private
25 company. I mean, there was no way to sell them. And then,

051Cgar2

Wasko - Direct

1 until the SPAC merged with the company, there would still be no
2 way. And so, there was an ongoing lockup, so to speak, on all
3 of your stock.

4 Q. So you said, first of all, an investment in a private
5 company, there's no way to sell it. What do you mean by that?

6 A. I mean there's -- you don't really have your shares. You
7 just have, you know, your receipt, so to speak. You can't sell
8 your shares until you actually receive them, and that doesn't
9 happen until it's publicly listed and freely tradeable.

10 Q. And in this case, did DWAC become publicly listed?

11 A. It did, but it was not -- it wasn't freely tradeable yet.

12 Q. Why were your founder shares not freely tradeable after
13 public listing?

14 A. Because it was contingent upon the SPAC consummating a
15 merger with a private company.

16 Q. And you mentioned the term "lockup." What does "lockup"
17 mean in context of stocks?

18 A. "Lockup" means you're restricted from being able to sell
19 your investment.

20 Q. Is that a formal restriction or how does that come into
21 play?

22 A. So, yeah, you don't even have your shares in your account
23 most of the time, at least that I'm aware of when you're locked
24 up. So, while you can look at it trading on the exchange,
25 there's really nothing actionable you can do.

O51Cgar2

Wasko - Direct

1 Q. Do you still own the founder shares of DWAC?

2 A. Yes.

3 Q. Are you aware of what the lockup terms are on those shares?

4 A. Not fluently or exactly, but I know it's going to be a
5 little while longer.

6 Q. And what, if any, event is what started the clock on your
7 lockup term?

8 A. So that's the part that I still don't entirely understand.
9 I believe it's when the merger took place and the symbol
10 changes from DWAC to now it's DJT, and that starts the clock.
11 Throughout the process, you know, I wasn't 100 percent sure if
12 that's it, but now I'm fairly certain that's what started the
13 clock.

14 Q. What are some of the considerations about holding stock
15 that's subject to a lockup term?

16 MR. BACH: Objection.

17 THE COURT: Where is this going? Relevance?

18 MR. NESSIM: Can I approach, your Honor, and make a
19 proffer on that?

20 THE COURT: Okay.

21 (Continued on next page)

051Cgar2

Wasko - Direct

1 (At the sidebar)

2 MR. NESSIM: Your Honor, the evidence will show that
3 the Rocket One investment team, Mr. Garelick, Mr. Shvartsman
4 were very focused on the liquidity that would come through the
5 open market warrants and investments that they made, and that
6 the lockup terms of the founder shares was a reason why they
7 wanted to diminish their founder share investment and emphasize
8 their market investments. It provides an explanation of
9 partially the motives for why the insider trading took place
10 and why they wanted to buy the shares on the open market.

11 And so, to explain from an investor who is experienced
12 in investment and shares lockup conditions, sort of the general
13 considerations that you might make while weighing potential
14 investment opportunities subject to lockup conditions is
15 relevant to additional evidence in this case.

16 THE COURT: What do you expect him to testify to?

17 MR. NESSIM: I think he'll say generally, when you're
18 weighing a lockup investment, you understand that there's a
19 risk that there's a time when you want to sell the stock for
20 some reason and you can't, and you'll either watch the market
21 run away from you or you'll see the market collapsing and you
22 can't sell it and you're sort of bound by the terms of the
23 lockup. I'm not sure he'll say it exactly in those words
24 but --

25 MR. BACH: We object. He's not here to give his

O51Cgar2

Wasko - Direct

1 opinions or provide explanatory background. He can explain his
2 conduct. The motive for the insider trading is not relevant,
3 certainly not Mr. Shvartsman's insider trading. I just think
4 this is beyond the scope of relevance in this case. We should
5 keep this home to the bone.

6 THE COURT: Overruled. You can do it.

7 MR. NESSIM: Thank you.

8 (Continued on next page)

O51Cgar2

Wasko - Direct

1 (In open court)

2 BY MR. NESSIM:

3 Q. Mr. Wasko, turning back to lockup conditions. As an
4 investor what are some of the considerations that you make when
5 assessing an investment subject to lockup conditions.

6 A. Some considerations I take is really what price you're --
7 what value you're getting involved with at. When there's a
8 lockup, the assumption, a lot of the times, is it's not going
9 to be where it is by the time your lockup is lifted. So, some
10 considerations you take are often you want to make sure you
11 have -- you're getting in at a point where you have enough room
12 to where you can watch it and, you know, not pull your hair
13 out.

14 Q. When you say, "watch it and not pull your hair out," what
15 do you mean by that?

16 A. Watch it and watch it on the public market exchange, it's
17 coming across CNBC, and you want to be able to probably, you
18 know, sell your position at a certain point, especially when
19 it's up a lot. So not pull your hair out meaning if it comes
20 down, you're still comfortable knowing that it's profitable in
21 some form or fashion.

22 Q. Because when there's a lockup, you can't sell --

23 MR. BACH: Objection.

24 THE COURT: Sustained.

25 MR. NESSIM: I'll withdraw it.

051Cgar2

Wasko - Direct

1 Q. Mr. Wasko, are you familiar with the term "warrant" in
2 reference to the stock market?

3 A. I am.

4 Q. Just generally speaking, what's a warrant?

5 A. A warrant is like a free option that is, you know, given to
6 some investments as a way to make the offering more attractive.
7 So it gives you the option to purchase more equity of your
8 original investment at -- most of the time your original pry
9 price at later date. So if the company does extremely well,
10 you can exercise that option and add more to your position at a
11 lower price.

12 Q. And what, if anything, did you learn about investing in
13 DWAC warrants specifically?

14 A. Well, knew that with DWAC, there were warrants that were
15 trading separately, and I know that Michael purchased some or
16 invested in some and, you know, floated the idea that it was
17 smart and a good way to add onto the position.

18 Q. Sorry. Who floated that idea?

19 A. Michael Shvartsman.

20 Q. Generally, what did he say to you about that?

21 A. That he likes them, he's going to purchase them, and
22 they're worth taking a look at.

23 Q. Did you buy DWAC warrants?

24 A. No.

25 Q. Why not?

051Cgar2

Wasko - Direct

1 A. Because, I mean, for a few reasons, but being that it
2 wasn't necessarily sure that anything they were saying was
3 actually going to happen, and another because I wasn't really
4 sure about what I could and could not be doing.

5 Q. Did there come a time when a potential merger target for
6 DWAC was announced?

7 A. Yes.

8 Q. Can you walk us through that? What happened?

9 A. It was in the morning and on CNBC, the news came out that
10 DWAC was merging with Trump social media platform, and the
11 stock went crazy, it went up a lot. It was a very exciting
12 morning. It was a very fun morning. A lot of high fives,
13 phone calls. Everyone was pumped up.

14 Q. When was it that you actually learned that the merger had
15 closed or been finalized?

16 A. When I saw it on CNBC that day.

17 Q. And just what happened to the share price that day once it
18 was announced?

19 A. It went up a lot.

20 MR. NESSIM: One moment, your Honor.

21 Q. Were you able to sell your founder shares on the day the
22 price went up, the day of the announcement?

23 A. No.

24 MR. NESSIM: Nothing further, your Honor.

25 THE COURT: Cross examination.

051Cgar2

Wasko - Cross

1 CROSS-EXAMINATION

2 BY MR. BACH:

3 Q. Good midmorning, Mr. Wasko. I'm Jonathan Bach. I'm Bruce
4 Garelick's attorney. I think you testified that you met
5 Michael Shvartsman before you heard the name Bruce Garelick;
6 correct?

7 A. That's correct.

8 Q. And that was in mid 2018; correct?

9 A. That's correct.

10 Q. And you were impressed by Mr. Shvartsman; correct?

11 A. Sorry. Excuse me. What was the word?

12 Q. You were impressed by Mr. Shvartsman?

13 A. Yeah, I was intrigued.

14 Q. Intrigued enough to continue to do some -- explore some
15 business with him?

16 A. Absolutely.

17 Q. And you found him smart and knowledgeable; correct?

18 A. Yes.

19 Q. You liked to bounce ideas off of him; correct?

20 A. Yes.

21 Q. And this was all before Mr. Garelick had joined him at
22 Rocket One; correct?

23 A. Yes.

24 Q. You also would, from time to time, go to Miami and meet
25 socially with Mr. Shvartsman; correct?

051Cgar2

Wasko - Cross

1 A. Correct.

2 Q. And you were shown a picture of his brother, Gerald;
3 correct?

4 A. Yes.

5 Q. Gerald sells furniture, he's not in the investment
6 business; right?

7 A. As far as I know, yes.

8 Q. But you recognize Gerald because you met him at some of
9 these social events; correct?

10 A. Correct.

11 Q. And you also met another friend of Michael's named Anton
12 Postolnikov; correct?

13 A. That's correct.

14 Q. And that was also at a birthday party, a social event;
15 correct?

16 A. That's correct.

17 Q. And you, in terms of the business relationship that you
18 developed with Michael Shvartsman, that for the most part
19 involved Mr. Shvartsman investing in opportunities that you
20 arranged; correct?

21 A. There were both.

22 Q. For instance, Mr. Shvartsman invested in some of your
23 special purpose vehicles; correct?

24 A. That's correct.

25 Q. For example, Airbnb; correct?

O51Cgar2

Wasko - Cross

1 A. That's correct.

2 Q. And again, that was before Mr. Garelick was affiliated with
3 Michael Shvartsman in any shape, manner, or form; correct?

4 A. That's correct.

5 Q. And Michael Shvartsman made those investment decisions on
6 his own; correct?

7 A. As far as I know, yes.

8 Q. And he was, in fact, quite successful before he started to
9 employ Mr. Garelick; correct?

10 A. That's my understanding, yes.

11 Q. And when you came into contact with Mr. Garelick, you were
12 impressed by what he added; correct?

13 A. Absolutely.

14 Q. You described his brains and experience just now; correct?

15 A. Yes.

16 Q. He added a level of analytic rigor and thinking to the
17 investment process; correct?

18 A. Agreed.

19 Q. You and Michael were good at picking ideas, but then he
20 would look at them from an analytical perspective; correct?

21 A. Yes.

22 Q. He would crunch numbers?

23 A. Right.

24 Q. He would gather information about a public project;
25 correct?

051Cgar2

Wasko - Cross

1 A. Correct.

2 Q. And he would look at that public information and add value
3 to the thought process that you and Mr. Shvartsman were engaged
4 in; correct?

5 A. Yes.

6 Q. And you were impressed by his work?

7 A. Yes.

8 Q. Let's go now, move the clock forward to June 2021.

9 Mr. Shvartsman contacts you about a SPAC opportunity then;
10 correct?

11 A. Correct.

12 Q. That's just Mr. Shvartsman; correct?

13 A. That's correct.

14 Q. And you testified a moment ago that when Mr. Shvartsman
15 raised it with you, you found it an interesting opportunity
16 given the time in the market; correct?

17 A. Correct.

18 Q. And the reason it was interesting at that time in the
19 market was because SPACs were trending at that time in the
20 market; correct?

21 A. That's correct.

22 Q. And SPACs were something that, a few years before, were not
23 used as frequently; correct?

24 A. As far as I understand, yes.

25 Q. But when we get to '20 and '21, SPACs are a phenomenon that

051Cgar2

Wasko - Cross

1 everyone's noting; correct?

2 A. Correct.

3 Q. And you were intrigued by that; correct?

4 A. Correct.

5 Q. And the reason you were intrigued by that was because many
6 SPACs were doing very well; correct?

7 A. Correct.

8 Q. In other words, if you got in in the founders round when
9 the SPACs combined with a target operating company and a merger
10 was announced, these SPACs in '20 to '21 seemed to have an
11 incredible track record of performance; correct?

12 A. I don't know all of them by any means, but yes, they were
13 definitely a successful endeavor during that time period.

14 Q. And that was public information; correct?

15 A. Yes.

16 Q. That was reported about in the trade press; correct?

17 A. I assume, yes.

18 Q. As an investor, you knew about that; correct?

19 A. I did.

20 Q. Going back to June 2021 when Michael Shvartsman contacted
21 you, what he did was he arranged to get you on the phone with
22 Patrick Orlando; correct?

23 A. That's right.

24 Q. And he made arrangements and you did come to speak to
25 Mr. Orlando?

O51Cgar2

Wasko - Cross

1 A. Yes.

2 Q. And that was on June 22; right?

3 A. I don't know the exact date.

4 Q. You were shown a confidentiality agreement a few moments
5 ago.

6 A. Uh-huh.

7 Q. That was sent to you after the phone call with Mr. Orlando;
8 correct?

9 A. I'm not 100 percent sure on that, no.

10 MR. BACH: Let's pull it up. Can we pull up
11 Government Exhibit 211.

12 Q. You see what the date is it at the top, June 27?

13 A. Yes.

14 Q. Isn't that after your phone call with Mr. Orlando --

15 MR. NESSIM: Objection.

16 THE COURT: Basis.

17 MR. NESSIM: Assumes facts not in evidence.

18 THE COURT: Overruled. It's just a question. Go
19 ahead.

20 A. Will you repeat the question.

21 Q. Sure. Do you see how it says June 27, 2021?

22 A. Yes.

23 Q. Is that after your call with Mr. Orlando on or around June
24 22?

25 A. Yeah, I believe so.

O51Cgar2

Wasko - Cross

1 Q. And when you are on the phone with Mr. Orlando, nobody
2 mentioned confidentiality; correct?

3 A. I don't remember.

4 Q. Well, let me see if I can refresh your recollection.

5 MR. BACH: One moment. I apologize.

6 (Pause)

7 Ms. McFerrin, can you show just the witness,
8 Mr. Wasko, 35157 at page 2, the third full paragraph.

9 Q. Sir, I'm referring you to the third full paragraph on the
10 page. Take a minute to read it, including all the way to the
11 very end.

12 A. I see this. Again, I don't remember saying it or exactly
13 on the call, but I see it in these notes.

14 THE COURT: Why don't you wait until there's a
15 question.

16 Q. Having seen that document, does that now refresh your
17 recollection that no one mentioned confidentiality on the call?

18 A. Again, I don't remember anyone mentioning a confidentiality
19 agreement.

20 Q. As you sit here today, you have no recollection of anyone
21 mentioning confidentiality?

22 A. No.

23 Q. Is that correct?

24 A. No, I do not.

25 Q. And Mr. Orlando was the guy leading the meeting; correct?

051Cgar2

Wasko - Cross

1 A. Correct.

2 Q. And he talked about some of his plans with respect to Trump
3 Social and Trump Media Group; correct?

4 A. Correct.

5 Q. Correct?

6 A. Correct.

7 THE COURT: You have to, sir, try to keep your voice
8 up.

9 THE WITNESS: Correct.

10 Q. And you listened to everything he had to say; correct?

11 A. Yes, I tried.

12 Q. And you thought it was a sales pitch and that the deal
13 could easily not happen; correct?

14 A. Correct.

15 Q. In fact, you described him as cocky and confident; correct?

16 A. Correct.

17 Q. But you were skeptical; correct?

18 A. Correct.

19 Q. And during the call, he also referred to some other backup
20 plans in case his aspirations with Trump Media Group just
21 didn't come through; correct?

22 A. I believe so.

23 Q. Now, let me show you Government Exhibit 409. I think you
24 just saw it a moment ago. Let me pull it back up on the
25 screen.

051Cgar2

Wasko - Cross

1 Do you remember you were shown and asked some
2 questions about this document just a moment ago?

3 A. Yes.

4 Q. And this is an email from Bruce Garelick to you on June
5 24th, 2021; correct?

6 A. Correct.

7 Q. And you understood the time that Michael was trying to
8 organize a group of investors to invest in DWAC; correct?

9 A. Correct.

10 Q. Known as a syndicate of investors; correct?

11 A. Sure.

12 Q. You understood that the reason Mr. Garelick was reaching
13 out to you was as part of the effort to find investors to join
14 that group or syndicate?

15 A. Correct.

16 MR. BACH: Let's pull back up Government Exhibit 410.

17 Q. The government showed you this exhibit a moment ago. Do
18 you remember being asked questions about it?

19 A. Yes.

20 Q. And you decided to become a part of that group of
21 investors, investing alongside Michael; correct?

22 A. That's correct.

23 MR. BACH: We can take that down.

24 Q. I think you also mentioned that you came to understand that
25 Mr. Garelick would be offered a seat on the DWAC board;

051Cgar2

Wasko - Cross

1 correct?

2 A. Correct.

3 Q. And you've been involved in -- I don't know the right
4 phrase, but you've been involved in investment activity for a
5 number of years; correct?

6 A. Correct.

7 Q. Venture capital investment?

8 A. Correct.

9 Q. Private equity investment?

10 A. Correct.

11 Q. It's not uncommon for a large investor to ask to be
12 represented on the board of the company in which they're
13 investing; correct?

14 A. Correct.

15 MR. BACH: Let's take a look at Government Exhibit
16 433, which was just on the screen.

17 Q. This is an email from -- let me just pause.

18 Do you remember being shown this document and asked
19 some questions about it?

20 A. Yes.

21 Q. Just to recap, this is from Bruce to you on June 30th,
22 2021. Do you see that?

23 A. I do.

24 Q. And it copies Mr. Orlando and Mr. Shvartsman and some other
25 people. Do you see that?

O51Cgar2

Wasko - Cross

1 A. I do.

2 Q. And the subject is DWAC SPAC investment paperwork and
3 logistics. Do you see that?

4 A. I do.

5 Q. And you understood that Michael Shvartsman, having made a
6 decision to form this investment group, was tasking
7 Mr. Garelick with handling the logistics and the mechanics;
8 correct?

9 A. That's correct.

10 Q. He was employed by Mr. Shvartsman; correct?

11 A. That's correct.

12 Q. So he was the one doing the work, coordinating this
13 correspondence; correct?

14 A. Correct.

15 Q. And focusing your attention here on the second paragraph,
16 second sentence. It says: "Note, you have the option of a \$4
17 class B stock we discussed or, alternatively, a \$5 class B
18 founders stock with a 45-day notice redemption notice." Do you
19 see that?

20 A. I do.

21 Q. So you understood there was a \$4 option and a \$5 option;
22 correct?

23 A. Correct.

24 Q. And the \$5 option, forgive this question, it was more
25 expensive than the \$4 option; correct?

051Cgar2

Wasko - Cross

1 A. Correct.

2 Q. It was another dollar per share; correct?

3 A. Correct.

4 Q. Can you tell the jury the difference between why someone
5 would pay \$5 instead of \$4 in this situation?

6 A. Well, in this situation, it says the \$5 option comes with a
7 45-day redemption notice, which, my understanding of that is
8 within 45 days you can decide to take your funds back at cost
9 and it gives you less risk, which is why you're paying more.

10 Q. So if you pay more, you get the right to ask for your money
11 back; correct?

12 A. I think so.

13 Q. And you understood, did you not, that that \$5 price was
14 something that Mr. Shvartsman negotiated for; correct?

15 A. I don't know. I don't recall that.

16 Q. But the \$5 price was an added layer of protection, you paid
17 more to get a little more protection; correct?

18 A. Yes.

19 Q. Because if you didn't like who the SPAC combined with, it
20 didn't combine with the target you wanted, you wanted to be
21 able to get your money back; correct?

22 A. Correct.

23 Q. So you wanted to pay a little extra money to protect
24 against the possibility that there might not be a combination
25 with Trump Media Group; correct?

051Cgar2

Wasko - Cross

1 A. Amongst other reasons, as well, other things could come up,
2 but yes.

3 MR. BACH: Could we just take a look at Government
4 Exhibit 484, which you were just shown a minute ago.

5 Q. You were just shown this document a minute ago. It's from
6 you to Alex Monje on July 7th. Do you see that?

7 A. I do.

8 Q. And this is you saying you wanted to do the \$5 option;
9 correct?

10 A. Correct.

11 MR. BACH: We can take that down.

12 Q. So once you decide to go forward with the \$5 option, you
13 purchased something called founders shares; correct?

14 A. Correct.

15 Q. When you decide to purchase founders shares, you didn't get
16 the shares right away; correct?

17 A. Correct.

18 Q. But you got something called a subscription agreement;
19 correct?

20 A. Correct.

21 Q. A subscription agreement is a legal document that
22 memorializes your ownership interest in the founders shares;
23 correct?

24 A. Yes.

25 Q. And, in other words, I think you testified a moment ago on

051Cgar2

Wasko - Cross

1 direct that you get the founder shares at some future point in
2 time, you get the shares themselves; correct?

3 A. Correct.

4 Q. But what you've got in your hands until then is this
5 subscription agreement, which essentially says, I'm a
6 subscriber, when the shares come about, I'm going to turn in my
7 subscription and get these shares; correct?

8 A. Correct.

9 Q. And when you pay your money, that was a document that you
10 got in your hands, a subscription agreement; correct?

11 A. I believe so.

12 Q. And it's your understanding that everyone else -- well,
13 withdrawn.

14 And you also understood that when you obtained these
15 founder shares, you couldn't sell them that day; right?

16 A. Right.

17 Q. You couldn't transfer them to someone else that day; right?

18 A. Correct.

19 Q. You had to wait a period of time until certain events
20 happened before these could be transferred or traded in any;
21 correct?

22 A. Yes, I believe so.

23 Q. So, for instance, if you had a friend that you wanted to
24 sell them to for \$100,000 in the next month or so, you couldn't
25 really do that; right?

O51Cgar2

Wasko - Cross

1 A. I don't really know, but I can't speak to it.

2 Q. But your understanding was you couldn't transfer them at
3 the time; right?

4 A. Right. I couldn't trade them.

5 Q. You were also asked some questions on direct examination
6 about warrants; correct?

7 A. Correct.

8 Q. And a warrant is a right to buy shares at a future date;
9 correct?

10 A. I believe so, yes.

11 Q. It's a right to buy at a future date -- at some point at a
12 future time period; correct?

13 A. Correct.

14 Q. At a certain price; correct?

15 A. Correct.

16 Q. In other words, if I have a warrant that says at some point
17 in the next five years, I can buy DWAC stock at \$10, I can
18 exercise that warrant and pay \$10 for DWAC shares at any point
19 in those five years; correct?

20 A. Correct.

21 (Continued on next page)

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Wasko - Cross

1 BY MR. BACH:

2 Q. And if DWAC stock is selling at \$25 a share, I still get to
3 buy it at \$10 because I have a warrant, correct?

4 A. Correct.

5 Q. And if DWAC stock is trading at \$5, I don't get to buy—I
6 might not buy it because why spend \$10 to get a \$5 share,
7 correct?

8 A. Correct.

9 Q. So a warrant is essentially a bet that at some point over
10 that period of time, the five years, or whatever the period is,
11 that the stock price is going to go above the strike price in
12 the warrant, correct?

13 A. Correct.

14 Q. Okay. And so what an investor thinks about in that context
15 is, do I think that—do I think that the price of the stock
16 over the next period of time is going to be higher than the
17 price I've contracted to in my warrants, correct?

18 A. Yeah.

19 Q. And here, in the case of DWAC, the time period for the
20 warrants was five years long, correct?

21 A. I don't recall.

22 Q. Okay. But you discussed with Michael his plans to buy
23 warrants in this stock at some point, correct?

24 A. Correct.

25 Q. And he told you that he liked these warrants, right?

O511GAR3

Wasko - Cross

1 A. Right.

2 Q. And he liked them because of the math; the price that he
3 was buying them at, he thought it was a good bet that the
4 warrants would be a good buy at some point in the next five
5 years, correct?

6 A. Again, I don't know about the time horizon, but yes, he
7 thought it was a good value.

8 Q. Okay. And that was based on his mathematical analysis of
9 the warrants, correct?

10 MR. NESSIM: Objection.

11 THE COURT: Sustained.

12 Q. Do you know what that was based on?

13 A. No.

14 Q. Well, you had a number of conversations with him, correct?

15 A. I mean, in general, or about that specifically?

16 Q. About warrants.

17 A. Not—I mean, yeah, couple.

18 Q. And I think you said a moment ago on direct that you didn't
19 buy warrants, correct?

20 A. Correct.

21 Q. One of the reasons you didn't buy warrants is because you
22 weren't sure that this could happen; those were your words,
23 correct?

24 A. Correct.

25 Q. Meaning you were still skeptical about this investment,

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Wasko - Cross

1 correct?

2 A. Correct.

3 Q. Now—

4 THE COURT: Mr. Bach, how much more do you have on
5 your cross-examination?

6 MR. BACH: I don't know exactly, but I think about 20
7 minutes.

8 THE COURT: Okay. It's now a little bit after 11, so
9 why don't we take our midmorning break for about ten minutes or
10 so, start again at 11:15.

11 During the break, please don't talk about the case
12 amongst yourselves, don't do any investigation about the case.
13 Have a good break.

14 THE DEPUTY CLERK: All rise.

15 (Continued on next page)

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Wasko - Cross

1 (Jury not present)

2 THE COURT: Okay. The witness may step down.

3 As a reminder, at 12:45, we'll discuss the other
4 issues from Ms. Shapiro's letter of this morning. And please
5 try to be back here a couple minutes before 11:15.

6 (Recess)

7 (Jury not present)

8 THE COURT: All right. I understand that after the
9 testimony of this witness is done, we'll give the jury a short
10 recess to take care of the invocation by the next witness; is
11 that correct?

12 MR. SHAHABIAN: That's correct.

13 MR. BACH: But Judge, just so the Court is aware, I
14 overestimated the length of my examination. I think I'm pretty
15 much going to be done.

16 THE COURT: That's happy news.

17 MR. BACH: Good.

18 THE COURT: Okay. Let's bring the jury in.

19 MR. NESSIM: Should we get the witness on the stand,
20 your Honor?

21 THE COURT: Yes. Let's get the witness on the stand
22 first. Thanks.

23 (Continued on next page)

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1 (Jury present)

2 THE COURT: Be seated.

3 All right. The witness is reminded he's still under
4 oath.

5 Mr. Bach, you may proceed.

6 MR. BACH: Thank you, Mr. Wasko. I appreciate your
7 time, and I have no further questions for you. Thank you.

8 THE COURT: Okay. Redirect examination?

9 MR. NESSIM: No redirect, your Honor.

10 THE COURT: Okay. Members of the jury, I actually
11 have a legal matter I need to take up with the parties so I'm
12 going to excuse you back into the jury room for a couple
13 minutes. It could just be a couple minutes, then we'll have
14 you back in.

15 THE DEPUTY CLERK: All rise.

16 (Continued on next page)

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O511GAR3

Wachter

1 (Jury not present)

2 THE COURT: So you're excused as a witness. You may
3 step down.

4 (Witness excused)

5 THE COURT: You may be seated.

6 All right. The government should call its next
7 witness to the stand.

8 Does the government have a copy of the immunity order?

9 MR. SHAHABIAN: Yes, your Honor.

10 THE COURT: Do you want to pass that up.

11 MR. SHAHABIAN: Yes, your Honor.

12 THE COURT: And will the government then ask the
13 sufficient questions for the witness to invoke, and then I'll
14 direct that the order is effective and that the witness will
15 testify pursuant to the order.

16 MR. SHAHABIAN: Yes, your Honor.

17 Government calls Marc Wachter.

18 THE COURT: The witness may be called to the stand.

19 Mr. Shahabian, when the jury is brought back in,
20 you'll go through the same routine of calling the witness to
21 the stand, so he'll still be on the stand, and we will swear
22 him again just so that he is sworn in front of the jury.

23 Sir, you may step forward.

24 Please step into the witness box and remain standing.
25 My courtroom deputy will administer the oath.

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Wachter

1 THE DEPUTY CLERK: Please raise your right hand.

2 (Witness sworn)

3 THE DEPUTY CLERK: Please state your name and spell
4 your first and last name for the record.

5 THE WITNESS: Marc Wachter. M-A-R-C, W-A-C-H-T-E-R.

6 THE COURT: Okay. Counsel, you may proceed.

7 MR. SHAHABIAN: Thank you, your Honor.

8 MARC WACHTER,

9 called as a witness by the Government,

10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SHAHABIAN:

13 Q. Mr. Wachter, good morning.

14 A. Good morning.

15 Q. Are you testifying here today pursuant to an immunity
16 order?

17 A. Yes.

18 Q. Is that because you believe that the answers you would give
19 during today's proceeding might tend to incriminate you?

20 A. Yes.

21 Q. If you were asked any questions without the immunity order,
22 would you invoke your Fifth Amendment rights against
23 self-incrimination?

24 A. Yes.

25 MR. SHAHABIAN: Your Honor, I ask that the order

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Wachter

1 become effective and be marked as Court Exhibit 1.

2 THE COURT: Any objection, Mr. Bach?

3 MR. BACH: No.

4 THE COURT: Okay. The order is declared effective and
5 will be marked as Court Exhibit No. 1.

6 The witness may remain on the stand.

7 Any objection to calling the jury back in?

8 MR. SHAHABIAN: No, your Honor.

9 THE COURT: Mr. Bach?

10 MR. BACH: No, your Honor.

11 THE COURT: All right. Let's bring the jury back in.

12 MR. BACH: I will need some break between the direct
13 and the cross, whenever that is. There might be a natural
14 break, but—

15 THE COURT: Hopefully. We'll see. We'll try to
16 accommodate that, Mr. Bach.

17 MR. BACH: A brief one, that's all. Very brief.

18 MS. SHAPIRO: 30 seconds.

19 (Continued on next page)
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Wachter

1 (Jury present)

2 THE COURT: Be seated.

3 All right. The government should identify their next
4 witness for the record.

5 MR. SHAHABIAN: Government calls Mark Wachter.

6 THE COURT: Mr. Wachter, would you please stand up.
7 My deputy will administer the oath to you.

8 (Witness sworn)

9 THE DEPUTY CLERK: Thank you. Please state your name
10 for the record.

11 THE COURT: You can be seated while you do that, and
12 speak into the microphone, please.

13 THE WITNESS: Marc Wachter. M-A-R-C, W-A-C-H-T-E-R.

14 THE COURT: Counsel, you may proceed.

15 Mr. Wachter, please try to keep your voice up, speak
16 into the microphone, and wait until the question is done before
17 you answer.

18 Go ahead, counsel.

19 MR. SHAHABIAN: Thank you, your Honor.

20 MARC WACHTER,

21 called as a witness by the Government,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SHAHABIAN:

25 Q. Good morning, Mr. Wachter.

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Wachter

1 A. Good morning.

2 Q. Where do you live?

3 A. Miami, Florida.

4 Q. What do you do for a living?

5 A. I do life insurance and financial planning.

6 Q. Are you testifying here today because of what is called a
7 compulsion order issued by the Court?

8 A. Yes.

9 Q. Does that mean you've been ordered to testify?

10 A. Yes.

11 Q. Have you consulted a lawyer to help you understand the
12 compulsion order?

13 A. Yes.

14 Q. Under that order, what do you have to do?

15 A. Tell the truth.

16 Q. If you do that, are you protected by the compulsion order?

17 A. Yes.

18 Q. Do you get immunity from prosecution—

19 MR. BACH: Objection to the leading nature of the—

20 THE COURT: Overruled.

21 Q. Under the compulsion order, do you get protection from
22 prosecution in general or protection from your words on the
23 stand today?

24 A. I'm not sure I understand the question.

25 Q. Sure. Under the compulsion order, are you protected from

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Wachter

1 prosecution 100 percent or does it just protect what you say
2 here in court today?

3 A. I believe it protects me completely if I tell the truth.

4 Q. Do you need to tell the truth in order for the compulsion
5 order to apply?

6 A. Yes.

7 Q. Does it apply if you're lying?

8 A. No.

9 Q. Could you be prosecuted for lying if you do not tell the
10 truth?

11 MR. BACH: I'm going to object to these questions.

12 THE COURT: Sustained. Sustained. Move on.

13 Q. Mr. Wachter, have you heard of a company called Digital
14 World Acquisition Corporation?

15 A. Yes.

16 Q. How do you know about DWAC?

17 A. Through my friend Patrick Orlando.

18 Q. How do you know Patrick Orlando?

19 A. He's been a friend—client of mine and friend for over ten
20 years.

21 Q. How did you meet?

22 A. We met through our wives. Our wives had met. We have
23 children almost the same age. And they met and introduced us.

24 Q. What was the nature of your friendship over those ten
25 years?

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Wachter

1 A. Started out as an insurance client of mine, and then we
2 just built a friendship from there and used to talk about
3 business opportunities with each other from time to time.

4 Q. What was Patrick Orlando's affiliation with DWAC?

5 A. He was the founder and chief executive officer.

6 Q. What is DWAC?

7 A. DWAC is a—it's a SPAC.

8 Q. What's a SPAC?

9 A. SPAC is a special purpose acquisition company. Yeah.

10 Q. What's a special purpose acquisition company?

11 A. Well, my understanding is it's a shell company that's
12 designed for the purpose of finding a target company to—to
13 take it public.

14 Q. Did you have any role in getting DWAC off the ground?

15 A. Yes.

16 Q. What was your role?

17 A. Making introductions to potential investors and just
18 helping to assist Patrick in whatever I could, just some
19 office—office help here and there.

20 Q. Was that the first time you'd assisted Mr. Orlando with one
21 of his companies?

22 A. Well, no. I—I mean, I—I did the insurance for both him
23 and his partner in the last company that they had, so I did
24 some—some financial planning for them.

25 Q. Did you have a formal title with DWAC or any of

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Wachter

1 Mr. Orlando's companies?

2 A. No.

3 Q. Did you anticipate being compensated in exchange for
4 assisting Mr. Orlando with DWAC?

5 A. Yes.

6 Q. How were you going to be compensated?

7 A. Based on some formula with the amount of—of money he was
8 able to raise that I was able to assist with and additional
9 compensation for just time and effort.

10 Q. And how were you going to be paid?

11 A. I was going to be paid in shares, same type of shares that
12 he had, which were restricted shares of—of stock called Class
13 B shares.

14 Q. Have you heard the term founder shares?

15 A. Founder shares. Same thing.

16 Q. Are founder shares the same thing as the Class B stock you
17 believe you'd be compensated with?

18 A. I believe it's the same.

19 Q. Did you have any formal agreement between you and
20 Mr. Orlando or any of his companies for your compensation in
21 exchange for your assistance?

22 A. No.

23 Q. What was your understanding then of how you would be
24 compensated?

25 A. That I would get a percentage of what I was able to help

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Wachter

1 raise and—and some additional compensation or bonus based on
2 time and effort.

3 Q. And who told you that?

4 A. Patrick.

5 Q. Have you received those founder shares yet?

6 A. No.

7 Q. When did Mr. Orlando first tell you about DWAC?

8 A. I believe it was sometime around June of 2021.

9 Q. What did he tell you?

10 A. He told me that he was working on a couple of different
11 SPACs, and I had never heard of the term SPAC and so it was the
12 first initial, you know, conversation to understand even what a
13 SPAC was and if I could be helpful to him in any way.

14 Q. You said he mentioned a couple of different SPACs. Besides
15 DWAC, do you remember the names of any other SPACs Mr. Orlando
16 told you about?

17 A. Yes.

18 Q. What other names?

19 A. One was called Benessere, another one was called Maquia,
20 and I believe those are the only other two.

21 MR. SHAHABIAN: I'd now like to publish Government
22 Exhibit 214.

23 If we could blow up the top portion, Mr. Bianco.

24 Q. Do you recognize Government Exhibit 214, Mr. Wachter?

25 A. Yes.

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Wachter

1 Q. What is it?

2 A. It's a confidentiality agreement.

3 Q. Who is it between?

4 A. It's between Benessere Capital Acquisition Corp. and
5 myself.

6 Q. And what's the date of this agreement?

7 A. I don't see the date on here.

8 Q. If you look at the end of the first line in the beginning—

9 A. Oh, sorry. June 2, 2021.

10 Q. Did you receive this document in 2021?

11 A. Yes.

12 Q. Did you sign it?

13 A. Yes.

14 Q. What is this?

15 A. It's confidentiality agreement, meaning that anything that
16 we discuss needs to be kept confidential.

17 Q. Why did you understand that you needed to sign a
18 confidentiality agreement with Benessere?

19 A. Well, it was my understanding from Patrick that anyone that
20 he shared any information relating to this SPAC or any other
21 SPAC, that everyone needed to sign a confidentiality agreement
22 to keep—keep information private.

23 Q. Did Mr. Orlando tell you about any potential merger targets
24 for either Benessere or DWAC?

25 A. Yes.

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Wachter

1 Q. What potential targets?

2 A. Well, one of them was Trump Media & Technology, and there
3 were others. I mean, there were several others, in many
4 different industries.

5 Q. Do you remember any of the others?

6 A. I mean, off the top of my head, no.

7 MR. SHAHABIAN: We could take this down, Mr. Bianco.

8 Q. Do you remember what Mr. Orlando told you about Trump
9 Media?

10 A. Just that he was in discussions with—with them as a
11 potential target for one of his SPACs.

12 Q. Did you understand that confirmation to be confidential?

13 A. Yes.

14 Q. You said earlier that you helped Mr. Orlando by introducing
15 potential investors in DWAC. What did you mean by that?

16 A. I meant that I would make—reach out to my contacts and was
17 happy to make introductions for Patrick to present his
18 opportunities.

19 Q. Was DWAC a publicly listed company when you made those
20 introductions?

21 A. No.

22 Q. What was the purpose of finding investors in DWAC at that
23 point?

24 A. To help Patrick raise money so that he could continue to
25 pursue these op—you know, pursue this—this—these investment

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Wachter

1 opportunities.

2 Q. Did you participate in meetings with potential investors
3 and Mr. Orlando?

4 A. Yes.

5 Q. In connection with those meetings did those investors have
6 to sign any documents?

7 A. Yes.

8 Q. What documents?

9 A. Confidentiality agreements.

10 Q. Were those confidentiality agreements similar to the one
11 that we just looked at that you signed?

12 A. I believe so.

13 MR. SHAHABIAN: If I can now show just for the
14 witness, Mr. Bianco, and counsel, Government Exhibit 504.

15 Q. Do you see Government Exhibit 504, Mr. Wachter?

16 A. Yes.

17 Q. And if I direct your attention to the top of the document,
18 what does this appear to be, generally?

19 A. Looks to me like a group text.

20 Q. Are you a participant in this group text?

21 A. Yes.

22 MR. SHAHABIAN: We can minimize the blowup,
23 Mr. Bianco.

24 Government offers Government Exhibit 504 pursuant to
25 the Joint Stipulation 2.

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Wachter

1 MR. BACH: Just a second, please.

2 We object.

3 THE COURT: You object to it?

4 MR. BACH: Yes.

5 THE COURT: On what grounds?

6 MR. BACH: Hearsay.

7 THE COURT: What does the stipulation say,

8 Mr. Shahabian?

9 MR. SHAHABIAN: It doesn't address hearsay. It just
10 addresses authenticity.

11 I'm happy to come to sidebar if the Court would like
12 to discuss the hearsay objection.

13 THE COURT: Okay. You might bring up a physical copy
14 of the exhibit.

15 MR. SHAHABIAN: Yes, your Honor.

16 (Continued on next page)

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Wachter

1 (At the sidebar)

2 MS. SHAPIRO: It's the green bubble, on top, the
3 Patrick Orlando discussion.

4 MR. SHAHABIAN: If I could respond.

5 THE COURT: Yes.

6 MR. SHAHABIAN: The statement, "Only of the person
7 under NDA," it's not a statement of truth, it's a command.
8 Commands are not hearsay; therefore, this isn't hearsay.

9 THE COURT: That seems right to me.

10 MS. SHAPIRO: Well, your Honor, let me see the text a
11 minute.

12 He's saying, "Am I at liberty to share the potential
13 SPAC target?" And Orlando is saying that he's only allowed to
14 do that if the person is under NDA. And the government is
15 going to argue that Orlando is stating that only people who
16 sign an NDA can—this information can only be shared with them,
17 and so that's for the truth of Orlando's statement that only if
18 a person signs the NDA can the information be shared.

19 THE COURT: I'm going to receive it for the purpose of
20 it being a command, that Mr. Orlando is answering that the
21 information about the SPAC target can be shared only with
22 persons who are under an NDA. The objection is overruled.

23 (Continued on next page)
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Wachter

1 (In open court)

2 THE COURT: All right. The exhibit is received.
3 Counsel, you may proceed.

4 (Government's Exhibit 504 received in evidence)

5 MR. SHAHABIAN: If we could publish this, Mr. Bianco.

6 THE COURT: This is Exhibit 504 that I just received.

7 MR. SHAHABIAN: And if we could blow up the top
8 portion.

9 BY MR. SHAHABIAN:

10 Q. Mr. Wachter, now that the jury can see, what is Government
11 Exhibit 504?

12 A. It's a group text message.

13 Q. And who are the participants in this group text message?

14 A. Myself, Rich Santelises, Natalie Salume, or Salume, and
15 Patrick Orlando.

16 Q. Who is Rich Santelises?

17 A. He's a friend of mine.

18 Q. And who is Natalie Salume?

19 A. Patrick's assistant.

20 MR. SHAHABIAN: Can we zoom out, Mr. Bianco. And if
21 we blow up the first message from Rich Santelises.

22 Q. Could you read the text message, Mr. Wachter.

23 A. "Am I at liberty to share the 'potential' SPAC target media
24 group name?"

25 Q. What did you understand this message from Mr. Santelises to

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1 mean?

2 A. Well, it wasn't from Mr. Santelises. It was forwarding
3 from a potential investor. This is from Justin. "Am I at
4 liberty to share." I understood that to mean, is he able
5 to—is this person able to share that the potential SPAC, SPAC
6 target media group—I'm assuming they meant Trump Media Group.

7 Q. What's the date of this message?

8 A. June 22nd.

9 MR. SHAHABIAN: We could take this down, Mr. Orlando
10 *[sic]*.

11 Q. What's the next message in the chain from Mr. Santelises?

12 A. He's forwarded that and then—and then wrote, "How do I
13 answer that?"

14 MR. SHAHABIAN: And if we blow up the green—thank
15 you, Mr. Bianco. If we could blow up the green bubble after.

16 And we could just focus on the third bubble. We don't
17 need the fourth bubble.

18 Q. Whose message is in the green bubble, Mr. Wachter?

19 A. Patrick Orlando.

20 Q. What does he say in response to this question?

21 A. "Only of," I guess he meant to say only if, "the person is
22 under NDA. We just need name and email."

23 Q. What is an NDA?

24 A. A nondisclosure agreement.

25 Q. What did you understand Mr. Orlando's instruction, "only if

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Wachter

1 the person is under NDA," to mean?

2 A. Meaning—I understand an NDA and a confidentiality
3 agreement to be one and the same, so I assume that that meant
4 they had to sign the confidentiality agreement beforehand.

5 MR. SHAHABIAN: We can take this down, Mr. Bianco.

6 Q. I'd like to shift topics, Mr. Wachter. Do you know Bruce
7 Garelick?

8 A. No.

9 Q. Have you met him before?

10 A. Only through Zoom on the one—I believe it was only on the
11 one time where I made the introductory meeting with—with the
12 Shvartsman brothers.

13 Q. Could you tell us about that meeting.

14 A. Well, I came by with Patrick Orlando and Patrick's
15 assistant Natalie, and we came to the office of Michael
16 Shvartsman, and at that meeting were Michael Shvartsman, his
17 brother Gerald Shvartsman, and I believe it was Bruce
18 was—Bruce Garelick was—was by Zoom.

19 Q. Where was the meeting?

20 A. In Michael Shvartsman's office in Aventura, Florida.

21 Q. How did that meeting come about?

22 A. I had reached out to Gerald Shvartsman, mentioned this
23 potential opportunity; he shared it with his brother, and set
24 up a meeting.

25 Q. How do you know Gerald Shvartsman?

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Wachter

1 A. Gerald's been a good friend of mine for at least ten plus
2 years. He's also an insurance client of mine and just a very
3 close friend.

4 Q. Did you know Michael Shvartsman before this meeting?

5 A. Yes.

6 Q. What was your relationship with Michael Shvartsman?

7 A. I considered him also a friend, but I didn't know him
8 nearly as well as I knew his younger brother Gerald.

9 Q. Did you know the name of Michael Shvartsman's company?

10 A. I don't know if I knew the name then, but I know the name
11 now.

12 Q. Did you know the—did you learn the defendant's role at
13 Mr. Shvartsman's company during this meeting?

14 A. Well, I subsequently learned that I believe he's the chief
15 investment officer. I think I had learned that at the meeting.
16 I just can't say for sure.

17 Q. Do you remember when the meeting was?

18 A. I know it was sometime in June of 2021.

19 Q. What was discussed at this meeting?

20 A. The potential investment opportunities.

21 Q. What were the potential investment opportunities?

22 A. Well, I believe it was primarily focused on DWAC, but it's
23 hard to remember. It was so many years ago. But I believe,
24 you know, his other SPACs may have also been mentioned as well.

25 Q. Do you remember—and when you say "mentioned," who brought

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Wachter

1 up the investment opportunities during the meeting?

2 A. Patrick.

3 Q. Mr. Orlando.

4 A. Yes.

5 Q. Do you remember what Mr. Orlando said about DWAC as a
6 potential investment opportunity?

7 A. I—I can't remember the specifics, but he had an investment
8 presentation that he used to give, you know, to any—any
9 meetings about the opportunity and what a SPAC was and what
10 this was and so forth, but in terms of the specifics of what he
11 said, I—I can't remember the details.

12 Q. Do you remember if any of the potential target names came
13 up during this meeting?

14 A. Yes.

15 Q. Which potential targets?

16 A. Well, for certain, Trump Media & Technology was brought up.
17 He—I believe he did mention other targets, but again, I can't
18 remember those names.

19 Q. Do you remember anything about what specifically was said
20 about Trump Media during this meeting?

21 A. That it was a potential target and—yeah, that's—that's—I
22 can't remember specifics.

23 Q. Do you remember if Mr. Orlando showed the meeting
24 participants any documents relating to Trump Media during the
25 meeting?

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1 A. Yes.

2 Q. What did he show?

3 A. He showed them what a—I believe it was an exclusive
4 agreement that he had with Trump Media Group, that my
5 understanding was that it was with his other SPAC, Benessere,
6 but that he had some sort of exclusive agreement that if Trump
7 Media Group was to do a SPAC, they were—they had to do it with
8 Pat—with Pat—Pat—either that company or one of Patrick's
9 companies.

10 MR. SHAHABIAN: If we could publish Government
11 Exhibit 102, and show page 1.

12 Q. Do you recognize this document, Mr. Wachter?

13 A. Yes.

14 Q. What is this?

15 A. It's a letter of intent from Trump to president Donald J.
16 Trump.

17 Q. Who's it from?

18 A. From Benessere Capital Acquisition Corp.

19 Q. Was this the document shown at that meeting?

20 A. I believe so.

21 MR. SHAHABIAN: If we could show the last page of this
22 document, Mr. Bianco.

23 Or sorry. Page 7.

24 Q. Have you seen this page before, Mr. Wachter?

25 A. Yes.

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Wachter

1 Q. What is this?

2 A. It's Donald J. Trump's signature.

3 Q. Did Mr. Orlando show the signature page during this
4 meeting?

5 A. I believe he did.

6 MR. SHAHABIAN: You can take this down, Mr. Bianco.

7 Q. Do you remember participating in any additional calls with
8 Bruce Garelick and other potential investors in DWAC?

9 A. Well, I don't really understand the question because I've
10 been involved in other presentations, but you mean with the
11 defendant Bruce involved? I don't believe so.

12 Q. You don't remember any other meetings you participated in
13 with Bruce Garelick.

14 A. No.

15 MR. SHAHABIAN: If we could bring up for the witness
16 and counsel Government Exhibit 732.

17 And at this point the government would offer Joint
18 Exhibit 3, which is a stipulation between the parties about
19 device and account instructions.

20 THE COURT: Okay. Any objection to Joint Exhibit 3,
21 the stipulation, Mr. Bach?

22 MR. BACH: If it's a stipulation—which stipulation is
23 it?

24 MR. SHAHABIAN: Joint Exhibit 3, the devices.

25 MR. BACH: Oh, that's fine. But we can't quite read

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Wachter

1 this.

2 THE COURT: But right now all that's being offered is
3 Joint Exhibit 3, so no objection to Joint Exhibit 3?

4 MR. BACH: No objection to that, Judge.

5 THE COURT: Okay. Joint Exhibit 3 is received.

6 (Joint Exhibit 3 received in evidence)

7 THE COURT: You can maybe work on the monitor. Do you
8 want to read Joint Exhibit 3?

9 MR. SHAHABIAN: Yes, your Honor.

10 THE COURT: You may do so.

11 MR. BACH: Judge, we're looking at two things at once
12 here. Could we just have—

13 MR. SHAHABIAN: Could we take this down, Mr. Bianco,
14 and we can bring up Joint Exhibit 3. We'll start with that.

15 So this is a stipulation between the parties that I'll
16 summarize.

17 The government and the defendant agree that certain
18 exhibits are true and correct copies of various items obtained
19 from cellphones or electronic accounts. At this time I'll read
20 paragraph 4, which says:

21 Government Exhibits 721 through 731—or sorry.
22 Paragraph 3.

23 "Apple offers an iCloud service which allows Apple
24 users the opportunity to store digital data on Apple servers.
25 Apple iCloud users may elect to back up electronic copies of

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Wachter

1 their cellular devices."

2 Paragraph 4. "Government Exhibits 721-731, 736, and
3 737 are true and correct copies of text message conversations
4 obtained from an Apple iCloud backup stored in Bruce Garelick's
5 Apple iCloud account ('the Garelick iCloud')."

6 And then I'll jump to paragraph 6.

7 "Government Exhibits 732, 733, and 738 are true and
8 correct calendar entries stored on the Garelick iCloud."

9 At this point the government offers Government
10 Exhibit 732.

11 THE COURT: Any objection to 732?

12 MR. BACH: I don't—now I need to look at 732.

13 THE COURT: Okay. That's fair.

14 MR. BACH: What we're seeing, it's hard for us to
15 read.

16 MS. SHAPIRO: Maybe we can scroll down so we can see
17 the rest of it, Mr. Bianco.

18 THE COURT: You'll have an opportunity, obviously,
19 Mr. Bach, to review the exhibit.

20 MR. BACH: Thank you.

21 Can we do a brief voir dire.

22 THE COURT: On what evidentiary issue?

23 MR. BACH: Whether there's any foundation or relevance
24 to this.

25 THE COURT: Not on the issue of relevance, and on

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Wachter

1 foundation, I'm not sure I understand.

2 MR. BACH: Let us spend five seconds at the sidebar.

3 THE COURT: Okay.

4 (Continued on next page)

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Wachter

1 (At the sidebar)

2 THE COURT: Let me see the exhibit.

3 MR. BACH: It's a calendar invite, and I think the
4 government wants to offer it as proof that the invited
5 attendees were present, actually present at the meeting, but
6 it's just an invite. And so we don't know why the invite, you
7 know, is relevant. They've said to us, when we raised this
8 with them, that there are texts from Mr. Wachter from the
9 meeting that confirm that he's there, that that's perhaps more
10 probative. But the reason this document is confusing and
11 prejudicial is it suggests that Mr. Garelick is at the meeting.

12 MR. SHAHABIAN: Maybe—

13 THE COURT: No. The objection is overruled.

14 MR. BACH: He said, he testified—

15 MS. SHAPIRO: Your Honor, the government told us that
16 he doesn't even remember the meeting, and then to use these
17 documents without following the proper procedures to either
18 refresh his memory or some sort of recollection recorded.

19 THE COURT: If somebody is invited to a meeting, under
20 *Shepard and Hillman*—

21 MS. SHAPIRO: That's fine, your Honor.

22 THE COURT: —it is evidence of—is not evidence of—

23 MS. SHAPIRO: We understand that, your Honor, but
24 apparently they want to use this to show that the meeting
25 occurred and he and Mr. Garelick were at it, and he doesn't

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Wachter

1 remember that, and that's why we don't think the proper
2 foundation has been laid.

3 THE COURT: The objection is overruled. The exhibit
4 can be received for the fact that a meeting was scheduled.

5 MR. BACH: And that was the voir dire I was
6 requesting, to clarify.

7 THE COURT: You can then do that on cross-examination.
8 The reason why I didn't permit voir dire on relevance is
9 because that's classic cross-examination.

10 MR. BROD: Can I just ask one point of clarification.

11 MR. BACH: No, that's okay.

12 (Continued on next page)

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Wachter

(In open court)

MR. SHAHABIAN: Your Honor, before the Court receives it, counsel conferred, and the government is just going to offer at this point row 1 of Government Exhibit 732, in case there are objections to additional portions of the document.

THE COURT: Okay. Row 1 is received.

(Government's Exhibit 732, row 1, received in evidence)

MR. SHAHABIAN: If we could publish, Mr. Bianco.

BY MR. SHAHABIAN:

Q. Mr. Wachter, do you see this exhibit in front of you?

A. Yes.

Q. Do you see the date and time is June 22, 2021?

A. Yes.

Q. The subject is Rocket One DWAC SPAC Intro to Other Prospective Investors?

A. Yes.

Q. Do you see the first email address, bruce@rocketonecapital.com? Do you know whose email that is?

A. I assume that's Bruce Garelick.

Q. Do you see approximately halfway down the list of attendees, MW@wealthplanningcenter.com?

A. Yes.

Q. Do you know whose email address that is?

A. That's my email.

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Wachter - Direct

1 Q. And do you see above that, porlando@beneinvest.com?

2 A. Yes.

3 Q. And do you see that there are a lot of other participants
4 in this meeting invite as well?

5 A. Yes.

6 Q. Hwasko@theelevenfund.com, do you see that below your email
7 address?

8 A. Yes.

9 Q. Do you know whose email address that is?

10 A. Well, I never—I don't believe I ever met or spoke to him,
11 but I believe his name is Harley [sic] Wasko.

12 Q. Do you remember attending a meeting such as this calendar
13 invitation?

14 A. No.

15 (Continued on next page)

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Wachter - Direct

1 BY MR. SHAHABIAN:

2 Q. Do you see the time that this meeting on June 22nd took
3 place?

4 A. Yes.

5 Q. What time did it take place?

6 A. 3:30 p.m. Well, I didn't believe that's the time that it
7 started. That was the time it was projected to start from this
8 email; right?

9 Q. I appreciate the correction.

10 The invitation schedule is for 3:30 p.m.; is that
11 correct?

12 A. Yes.

13 MR. SHAHABIAN: We can take this down, Mr. Bianco.

14 If we could bring up, just for the witness and
15 counsel, Government Exhibit 502.

16 Q. Do you recognize Government Exhibit 502, Mr. Wachter?

17 A. Yes.

18 Q. Without describing the content, what is it?

19 A. I'm just sharing with Patrick that I'm taking my kids, what
20 I'm planning to do with my kids for the day.

21 THE COURT: Just describe it.

22 A. It's a text message back and forth between Patrick and
23 myself.

24 MR. SHAHABIAN: If we turn to page 29, Mr. Bianco.

25 Sorry. Not page 29. If we go to the next page. If we could

O51Cgar4

Wachter - Direct

1 blow up the entry, June 22nd, 2021, at 3:50 p.m.

2 The government offers just this text message from
3 Government Exhibit 502.

4 MR. BACH: No objection.

5 THE COURT: Government Exhibit 502, just the text
6 message on June 22nd, 2021, at 3:50 p.m. is received.

7 (Government's Exhibit 502 received in evidence)

8 MR. SHAHABIAN: If we could publish this, Mr. Bianco.

9 Q. Do you see this, Mr. Wachter?

10 A. Yes.

11 Q. Whose text message is in the green bubble?

12 A. My text message.

13 Q. Who are you texting?

14 A. Patrick Orlando.

15 Q. Could you read the text message to the jury.

16 A. I would also mention that if Trump runs for president
17 again, this will likely be a huge boost to TMG.

18 Q. What is TMG?

19 A. Trump Media Group.

20 Q. Do you see the date and time, June 22nd, 2021, 3:50 p.m.?

21 A. Yes.

22 Q. Is that during the scheduled calendar invite we just looked
23 at?

24 A. Yes.

25 Q. Do you have any memory of discussing Trump Media during a

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Wachter - Direct

1 meeting at that scheduled time?

2 A. No.

3 MR. SHAHABIAN: You can take this down, Mr. Bianco.

4 Q. Mr. Wachter, did you learn anything about how successful
5 the Rocket One team was in bringing in investors to DWAC?

6 A. Yes.

7 Q. What did you learn?

8 A. That they became very successful in bringing investors in.

9 Q. Were you involved in the DWAC Trump Media Group merger
10 negotiations?

11 A. No.

12 Q. Were you involved with running the DWAC company after it
13 became public in September 2021?

14 A. No.

15 Q. I'd like to shift topics again.

16 After DWAC went public, did you ever transfer some of
17 your interests in DWAC founder shares to anybody else?

18 A. Yes.

19 Q. Who did you transfer your interest to?

20 A. Zoltan Present.

21 Q. Why did you transfer some of your shares to Zoltan Present?

22 A. Well, Zoltan -- Zoltan's wife and my wife were best
23 friends. They were in the process of looking to purchase a new
24 home. My wife was the real estate broker on that.

25 At the last moment, when they were ready to purchase

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Wachter - Direct

1 the home, he didn't qualify, Zoltan didn't qualify for a
2 mortgage because he didn't have enough liquidity in the bank.
3 At that time, I had also heard from Patrick Orlando that DWAC
4 investors -- that he was oversubscribed and he was going to
5 have to return some of their money or give them shares in his
6 other SPACs, and that he would have welcomed somebody returning
7 their shares.

8 So I had the idea that I needed cash, that I would be
9 willing to transfer or sell some of my interests, the same
10 amount that Zoltan -- Zoltan was an investor in the DWAC SPAC.
11 I would transfer the same amount of shares that he purchased
12 for the same amount that he purchased them for, which was
13 \$100,000. Patrick would return his money and renege that
14 transaction. I drew up a side agreement with Zoltan to
15 transfer my shares. Zoltan got his money into his account, was
16 able to close on his house. Then Zoltan had agreed -- we had
17 agreed that within a certainly reasonable time after that, he
18 would then pay me the \$100,000 for the interest of shares that
19 I had to transfer back to him.

20 Q. So to transfer your DWAC founder shares to Zoltan Present,
21 did you need to talk to anybody at DWAC?

22 A. Yes.

23 Q. Who did you talk to?

24 A. Both Patrick Orlando and Alex Monje, who was the legal
25 counsel for Patrick's companies.

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Wachter - Direct

1 Q. When did these discussions take place?

2 A. In October of 2021.

3 Q. Was it before or after the Trump Media DWAC merger
4 announcement?

5 A. Before.

6 MR. SHAHABIAN: Now showing the witness and counsel
7 Government Exhibit 472.

8 Government offers Government Exhibit 472 pursuant to
9 joint exhibit 2, the email stipulation.

10 MR. BACH: No objection.

11 THE COURT: Received.

12 (Government's Exhibit 472 received in evidence)

13 MR. SHAHABIAN: If we could publish this, Mr. Bianco.

14 Q. Mr. Wachter, do you see this email?

15 A. Yes.

16 Q. Who is it from?

17 A. It's from me to Zoltan.

18 Q. Who is Zoltan?

19 A. Zoltan is the person I was just talking about who was an
20 original investor in DWAC. He's the one that returned his
21 shares back and made a side deal with me.

22 Q. What's the date of this email?

23 A. October 11, 2021.

24 Q. Who's cc'd on this email?

25 A. Patrick Orlando, Natalie Salume, and that's it.

O51Cgar4

Wachter - Direct

1 Q. Could you read the first paragraph out loud.

2 A. Good morning, Zoltan. I spoke with Patrick this morning
3 and he is happy to accommodate returning your \$100,000
4 membership interest in DWAC. This will actually help him out a
5 lot as he is oversubscribed on the deal. As discussed, you and
6 I will simultaneously make an arrangement for me to transfer
7 \$100,000 of my DWAC membership interest in return for a
8 promissory note from you for \$100,000.

9 MR. SHAHABIAN: Your Honor, I think a juror may have
10 an issue with their screen.

11 JUROR: It's gone off a little bit, but it came back
12 on, so we're good.

13 Q. What is this paragraph referring to, Mr. Wachter?

14 A. Exactly what I just talked about, which is that Patrick
15 would return Zoltan's investment in DWAC, and I simultaneously
16 would make a side deal with Zoltan to transfer him my shares of
17 the exact same amount in return for a promissory note for the
18 same amount of money that he had just gotten returned from
19 Patrick.

20 Q. Let's read the next paragraph.

21 A. Please confirm, and Patrick and his team will put together
22 the paperwork for the transfer and will help with our
23 documentation between each other.

24 MR. SHAHABIAN: Your Honor, I think some jurors are
25 having issues with the screens again.

O51Cgar4

Wachter - Direct

1 JUROR: It's flickering a little.

2 Q. What does this paragraph mean --

3 THE COURT: Hold on for a second. Let's see if we can
4 solve the problem.

5 MR. SHAHABIAN: Yes, your Honor. Is it up on your
6 screen?

7 JUROR: Yes.

8 THE COURT: You may proceed.

9 BY MR. SHAHABIAN:

10 Q. Could you just read the second paragraph again,
11 Mr. Wachter, now that the jurors can see.

12 A. Please confirm, and Patrick and his team will put together
13 the paperwork for the transfer and will help with our
14 documentation between each other.

15 Q. What did you mean by, Patrick and his team will put
16 together the paperwork for the transfer?

17 A. Well, I wasn't going to do this without the assistance of
18 Patrick and his firm because I didn't actually have possession
19 of those shares, so I needed to have an understanding from
20 Patrick and his legal team that we could do this transfer and
21 that they acknowledged what was taking place, and they agreed
22 and were willing to help draft the documentation to make the
23 transfer.

24 Q. If you could read the last paragraph of the email.

25 A. Lastly, Patrick will be announcing some DWAC news very soon

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Wachter - Direct

1 and is also planning another very attractive founder share
2 raise for his next SPAC. We will likely be organizing an event
3 around this and, of course, you will be invited.

4 Q. Do you know what, "Patrick will be announcing some DWAC
5 news very soon" refers to?

6 A. No.

7 Q. Do you know what "the very attractive founder share raise
8 for his next SPAC" was?

9 A. Yes.

10 Q. Did Mr. Orlando share any news with you about where DWAC
11 was in its merger negotiations with Trump Media in October of
12 2021?

13 A. No.

14 MR. SHAHABIAN: We can take this down, Mr. Bianco.

15 Q. Did you have to have any further followup with Mr. Orlando
16 or his team in order to effectuate this transfer to
17 Mr. Present?

18 A. Yes.

19 Q. What did you do?

20 A. I reached out several times to make sure that this got done
21 because it was very time sensitive for Zoltan to get this deal
22 done. My wife was the real estate broker, so she was on me
23 quite a bit to push this along to get it done.

24 MR. SHAHABIAN: If we could go back, Mr. Bianco, to
25 Government Exhibit 502, and just for the witness and counsel.

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Wachter - Direct

1 If we go to pages 70 to 71. Scroll up, Mr. Bianco. If we go
2 back one more page to page 69. I know I'm being a little
3 precise here, but can you split the difference, Mr. Bianco,
4 with the bottom of page 69 and the top of page 70, and blow up
5 those two messages from October 12th and October 14.

6 Government offers Government Exhibit, pages 69 and 70
7 of Government Exhibit 502 pursuant to the communications
8 stipulation.

9 THE COURT: Any objection?

10 MR. BACH: None.

11 THE COURT: Those pages are received.

12 (Government's Exhibit 502 received in evidence)

13 during a break, Mr. Shahabian, you and the government
14 might agree to designate the selected pages of 502 that you are
15 offering as, for example, 502A and 502B so that if the jury
16 subsequently wants them, it will be clear what the exhibits
17 are.

18 MR. SHAHABIAN: Makes perfect sense, your Honor. We
19 will do that.

20 If we can publish this, Mr. Bianco.

21 BY MR. SHAHABIAN:

22 Q. Mr. Wachter, now that the jury can see, do you see the two
23 text messages on Government Exhibit 502?

24 A. Yes.

25 Q. Who's texting in the green bubble?

O51Cgar4

Wachter - Direct

1 A. I am.

2 Q. Who are you texting?

3 A. Patrick.

4 Q. What's the date of the first text message?

5 A. October 12th, 3:31 p.m.

6 Q. Could you read the text message out loud.

7 A. Hey bud, can you please push things along with Alex Monje
8 to return Zoltan's investment. He needs this cash to close on
9 a house that Anastasia is the broker on. It's pretty time
10 sensitive. Thanks.

11 Q. Who's Anastasia?

12 A. My wife.

13 Q. If you could read the second message, what is the date of
14 that message?

15 A. Two days later, October 14th, 5:39 p.m.

16 Q. Could you read the substance of the message for the jury.

17 A. Hey bud, have you made any progress on Zoltan's investment.
18 You promised you would have his money this week and tomorrow is
19 Friday. Please advise. Thanks.

20 Q. What are these text messages about, Mr. Wachter?

21 A. These text messages are about me pushing Patrick to return
22 Zoltan's money.

23 MR. SHAHABIAN: You can take this down, Mr. Bianco.

24 If we could show the witness and counsel Government
25 Exhibit 475.

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Wachter - Direct

1 The government offers Government Exhibit 475 pursuant
2 to the email stipulation.

3 MR. BACH: No objection.

4 THE COURT: 475 is received.

5 (Government's Exhibit 475 received in evidence)

6 MR. SHAHABIAN: If we could publish this, Mr. Bianco.
7 If we start at the top of the email and just highlight the
8 header.

9 Q. Who are the participants in this email chain, Mr. Wachter?

10 A. Myself, Zoltan, Patrick Orlando, and Alex Monje.

11 Q. You see the name, Zoltan Luxhunters?

12 A. Yes.

13 Q. Is that the same person as Zoltan Present?

14 A. Yes. That's the name of his company.

15 Q. What's the date of this email?

16 A. October 15th, 2021.

17 Q. Could you read the body of the email for the jury.

18 A. Zoltan, it's from Natalie Salume. Zoltan, your wire for
19 has been sent for \$100,000 return of capital. Please see wire
20 receipt attached. Please confirm receipt of funds. Thanks in
21 advance. Best regards, Natalie Salume.

22 Q. What was your understanding of the purpose of this email?

23 A. To confirm to Zoltan that the money had been wired into his
24 account.

25 Q. Did you execute the side agreement you mentioned,

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Wachter - Direct

1 transferring your shares to Zoltan Present after this money was
2 returned?

3 A. I don't know if it was right after or right before, but
4 within a very reasonable period of time one way or the other.

5 MR. SHAHABIAN: If we can show the witness and counsel
6 Government Exhibit 830.

7 Q. Do you recognize this document, Mr. Wachter?

8 A. Yes.

9 Q. What is it?

10 A. It's an agreement between myself and Zoltan Present.

11 Q. Is it a fair and accurate copy of that agreement?

12 A. I believe so.

13 MR. SHAHABIAN: Government offers Government Exhibit
14 830.

15 THE COURT: Mr. Bach.

16 MR. BACH: No objection.

17 THE COURT: 830 is received.

18 (Government's Exhibit 830 received in evidence)

19 MR. SHAHABIAN: If you can publish, Mr. Bianco.

20 Q. What is Government Exhibit 830, Mr. Wachter?

21 A. It's an agreement between Zoltan Present and myself for the
22 transfer of my 22,500 shares of my interest in DWAC to Zoltan.

23 Q. What's the date of this agreement?

24 A. October 16th, 2021.

25 Q. Was the merger between DWAC and Trump Media publicly

O51Cgar4

Wachter - Direct

1 announced when you entered into this agreement?

2 A. No.

3 Q. Did anyone help you prepare this agreement?

4 A. Yes.

5 Q. Who helped you?

6 A. Alex Monje.

7 Q. Who is Alex Monje?

8 A. He's counsel for Patrick Orlando. Well, he's counsel for
9 Patrick's companies, one of them being DWAC.

10 Q. How soon after you signed this agreement transferring your
11 shares to Zoltan Present was the DWAC Trump Media merger
12 announced?

13 A. Only a few days away.

14 Q. What was your reaction when you learned the news?

15 A. I was very surprised.

16 Q. Prior to that public announcement, did Patrick Orlando ever
17 tell you that the merger was going to happen or about to be
18 announced?

19 A. No.

20 Q. Would you have transferred your \$100,000 in DWAC shares to
21 Zoltan Present four days prior to the announcement if you knew
22 this was coming?

23 A. No.

24 Q. Why not?

25 A. Because on paper, those shares were worth about 30 or 40

O51Cgar4

Wachter - Direct

1 times what I had sold them to Zoltan for. I found out four
2 days later.

3 Q. Did Patrick Orlando give you any indication to slow down
4 this agreement or that an announcement was coming before you
5 entered into it?

6 A. No.

7 Q. Did you ever learn, prior to the public announcement of the
8 merger, that that announcement was coming?

9 A. No.

10 MR. SHAHABIAN: You can take this down, Mr. Bianco.

11 Q. Mr. Wachter, do you know a person named Anton Postolnikov?

12 A. Yes.

13 Q. How do you know Anton Postolnikov?

14 A. I met Anton at an event at Michael Shvartsman's homes.

15 Q. Do you remember when you met him?

16 A. I don't remember the date, but I had learned of his name
17 prior to that from Patrick Orlando, that he had invested in
18 DWAC.

19 Q. To be clear, by the time you met Anton Postolnikov, to your
20 understanding, had he already invested in DWAC?

21 A. Yes.

22 Q. Did you bring him into the DWAC founders share opportunity?

23 A. No.

24 Q. Did you know who he was when he invested in DWAC?

25 A. No.

051Cgar4

Wachter - Direct

1 Q. What was your relationship with Anton Postolnikov in
2 September and October of 2021?

3 A. We started to become friendly. I was working on trying to
4 get him a life insurance policy. And so, we spent quite a bit
5 of time together talking about that. In addition, I was
6 helping Patrick to present future SPAC opportunities to Anton.

7 Q. Why were you helping Patrick present future SPAC
8 opportunities to Mr. Postolnikov?

9 A. Because my relationship with Mr. Postolnikov started to
10 become very friendly and I had developed a good relationship
11 with him. I thought it was useful to help add credibility to
12 Patrick in those meetings.

13 Q. Did you meet with Mr. Postolnikov?

14 A. Yes.

15 Q. Where did you meet with him?

16 A. Different places, but I think mainly on Fisher Island where
17 he lived.

18 Q. Ever talk to him on the phone?

19 A. Yes.

20 Q. Text message with him?

21 A. Yes.

22 Q. Did you ever discuss DWAC with him?

23 A. Yes.

24 Q. What did you discuss about DWAC?

25 A. Just nothing specific, just general.

051Cgar4

Wachter - Direct

1 Q. Did you ever tell him that a merger announcement between
2 Trump Media and DWAC was coming before it was publicly
3 announced?

4 A. No.

5 Q. Did you personally ever trade in DWAC securities?

6 A. No.

7 Q. Ever trade in the securities of Benessere?

8 A. No.

9 Q. Did you ever delete any of your text messages with Anton
10 Postolnikov?

11 A. Yes.

12 Q. Why did you delete messages with Anton Postolnikov?

13 A. So, during that time I was working on obtaining a very
14 sizeable life insurance policy for Mr. Postolnikov, and during
15 that process, he was asking me a lot of questions, both
16 medications he was taking, financial information. In addition
17 to that, there were some messages or pictures that were sent
18 back and forth that were really just, you know, friendly guy
19 stuff that I didn't think was a good idea to keep on my phone.
20 With that information from his medical and financial, I didn't
21 think it was a good idea to keep stored on my phone, so I
22 erased it.

23 Q. Did you ever delete any messages relating to confidential
24 information about the DWAC Trump Media merger?

25 A. No.

O51Cgar4

Wachter - Direct

1 Q. You testified earlier that you understand you have an
2 immunity order in place?

3 A. Yes.

4 Q. Did you request immunity in this case because you're
5 concerned you committed insider trading?

6 A. No.

7 Q. Did you request immunity because you're concerned you
8 tipped other people confidential information.

9 MR. BACH: Objection. Leading.

10 THE COURT: Overruled.

11 Q. Did you request immunity because you were concerned you had
12 exposure for tipping confidential information to other people?

13 A. No.

14 Q. Did you ever pass confidential nonpublic information about
15 the DWAC Trump Media merger to anyone prior to it being
16 publicly announced?

17 A. No.

18 MR. SHAHABIAN: No further questions, your Honor.

19 THE COURT: Let me see the parties at sidebar.

20 (Continued on next page)

O51Cgar4

Wachter - Direct

1 (At the sidebar)

2 THE COURT: Mr. Bach, is there anything you can do for
3 about 10 minutes and then we'll take a break. I know you asked
4 for a break you do the cross.

5 MR. BACH: Whatever the Court's pleasure is. No
6 matter what, I'll need a 30-second comfort break.

7 THE COURT: I'll give the jury a break now, we'll keep
8 them in the jury box, and you do your cross examination until
9 12:45.

10 MR. BACH: Okay.

11 (Continued on next page)

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O51Cgar4

Wachter - Direct

1 (In open court)

2 THE COURT: Members of the jury, we're going to do a
3 short stretch break now and then cross examination will begin.
4 We'll go until 12:45 and then you'll take a little bit of an
5 earlier lunch break, which will continue until 2 o'clock. So
6 stretch break if you want one.

7 Mr. Bach, if you need to step out, you may do so.

8 THE WITNESS: Does that mean I can get up, too?

9 THE COURT: No. You can stretch if you want to.

10 THE WITNESS: I can stand up and stretch?

11 THE COURT: You can stand up and stretch.

12 Mr. Shahabian, I noticed some of your team has left
13 the room. As soon as Mr. Bach returns, we're going to get
14 started, so they should know that.

15 MR. SHAHABIAN: I will wrangle them, your Honor.

16 THE COURT: Your client stepped out. Again, as soon
17 as Mr. Bach comes back, I want to get started.

18 (Pause)

19 Mr. Brod, where's your client?

20 MR. BROD: He's out in the --

21 THE COURT: Can you get him.

22 Mr. Bach, you're going to stay here. Mr. Brod is
23 going to get him, you're staying here.

24 We've got the defendant here.

25 Mr. Bach, you may proceed.

051Cgar4

Wachter - Cross

1 MR. BACH: Thank you.

2 CROSS-EXAMINATION

3 BY MR. BACH:

4 Q. Mr. Wachter, before you testified here today, you invoked
5 your Fifth Amendment right not to incriminate yourself;
6 correct?

7 A. Correct.

8 Q. And to remain silent; correct?

9 A. Correct.

10 Q. And there was then an order compelling you to testify
11 regardless; correct?

12 A. Correct.

13 Q. And giving you something called immunity from prosecution;
14 correct?

15 A. Correct.

16 Q. Sir, you were just asked some questions about the
17 invocation of your Fifth Amendment right. Why did you invoke
18 your Fifth Amendment right?

19 A. I didn't want to have any issues whatsoever regarding any
20 potential securities violations, primarily because I was
21 soliciting potential investors and I just didn't see any reason
22 to testify unless I was compelled to.

23 Q. You were afraid of crimes associated with securities?

24 A. Yes.

25 Q. And you were sufficiently concerned that you invoked your

051Cgar4

Wachter - Cross

1 Fifth Amendment right; correct?

2 A. Correct.

3 Q. And those crimes associated with securities had to do with
4 the fact that you were promoting securities to people for
5 Patrick Orlando; correct?

6 A. Correct.

7 Q. And only certain people are allowed to promote securities;
8 correct?

9 A. Correct.

10 Q. And those are people with licenses; correct?

11 A. Correct.

12 Q. And you don't have a license; correct?

13 A. Correct.

14 Q. And you know that it's unlawful to do that because you're a
15 lawyer; correct?

16 A. Correct.

17 Q. And you have a law degree; correct?

18 A. Yes.

19 Q. And when you promoted the sale of securities without a
20 license, you knew you were breaking the law; correct?

21 A. No. No, I believed I was just making introductions. I
22 wasn't doing any selling or solicitation whatsoever.

23 Q. So when you contacted people about investing in a SPAC, you
24 weren't soliciting an investment interest?

25 A. Well, I guess technically I was, but I wasn't giving any

051Cgar4

Wachter - Cross

1 details about the investment. I was just making introductions.

2 Q. If you're just making introductions, sir, why did you
3 invoke your Fifth Amendment right?

4 A. Because I didn't see any downside not to.

5 Q. Did you have a basis to invoke your Fifth Amendment rights
6 or not?

7 A. I'm not sure. I had counsel who advised me.

8 Q. Did you commit a crime or not?

9 A. I don't believe I did.

10 Q. But you were worried enough that you invoked Fifth
11 Amendment rights and required an order compelling you to
12 testify?

13 A. Correct.

14 Q. We'll come back to that. Let's talk about 2021. Okay?

15 A. Okay.

16 Q. In 2021, your finances were tight; correct?

17 A. Correct.

18 Q. You had a friend, Mr. Orlando; correct?

19 A. Correct.

20 Q. You heard about opportunities to invest; correct?

21 A. Yes.

22 Q. And you personally didn't have the means to invest;
23 correct?

24 A. Correct.

25 Q. Even when your friend was offering the investment; correct?

051Cgar4

Wachter - Cross

1 A. Yes.

2 Q. Professionally, you have been a lawyer, but your practice
3 was no longer operational; correct?

4 A. I hadn't practiced law for many, many years.

5 Q. And you were in life insurance sales; correct?

6 A. Correct.

7 Q. But those life insurance sales weren't generating enough
8 money for you to invest; correct?

9 A. Correct.

10 Q. And at some point, you created an entity called the Wealth
11 Planning Center; correct?

12 A. Well, I had that entity for over 20 years.

13 Q. And the Wealth Planning Center, that's for you to help
14 other people make plans about how to manage their wealth;
15 correct?

16 A. Yes.

17 Q. And you gave them advice on wealth management; correct?

18 A. Yes.

19 Q. But even with the benefit of that knowledge, sir, you did
20 not personally have the wealth to invest in any shares of DWAC
21 stock or any other SPAC that Mr. Orlando was offering; correct?

22 A. Correct.

23 Q. And you needed money?

24 A. Yes.

25 Q. You knew some wealthy people, but you didn't have the money

051Cgar4

Wachter - Cross

1 yourself to get involved in DWAC; correct?

2 A. Correct.

3 Q. And Mr. Orlando is your friend for over 10 years; correct?

4 A. Correct.

5 Q. You've described him as your best friend?

6 A. Did I describe him as my best friend?

7 Q. Maybe you did.

8 A. Well, I would say he's a good friend. I don't know if I
9 would use the term "best friend."

10 Q. And your kids have played together; correct?

11 A. Yes.

12 Q. Families have gotten together; correct?

13 A. Yes.

14 Q. He's tried to help you by referring insurance clients to
15 you; correct?

16 A. Correct.

17 Q. And you needed money and asked him if you could get
18 involved with what he was doing with SPACs; correct?

19 A. Correct.

20 Q. And he needed money, too; correct?

21 MR. SHAHABIAN: Objection.

22 THE COURT: You want to establish a foundation.

23 Q. Well, he was raising money -- he was looking for money to
24 build SPACs; correct?

25 A. Correct.

051Cgar4

Wachter - Cross

1 Q. SPACs need money before they go public; right?

2 A. Correct.

3 Q. And you knew a number of wealthy people; correct?

4 A. Correct.

5 Q. You had run the wealth management center; correct?

6 A. Wealth Planning Center, yes.

7 Q. I apologize. The Wealth Planning Center; correct?

8 A. Correct.

9 Q. The plan was for you to use your contacts with wealthy
10 people and introduce them to Mr. Orlando in hope that you would
11 make a little for yourself; correct?

12 A. Correct.

13 Q. And your hope was that Mr. Orlando would find a way to pay
14 you back; correct?

15 A. Correct.

16 Q. You didn't have a license -- by the way, just pausing.
17 SPACs and founder shares and warrants and units and class B,
18 those are all forms of securities; right?

19 A. Yes.

20 Q. And you were going to go talk to people about investing in
21 those securities; correct?

22 A. No, just make introductions for Patrick to talk about them.

23 Q. So you weren't going to mention securities when you spoke
24 to them?

25 A. Well, I mean, I may have, but the idea was just to make

051Cgar4

Wachter - Cross

1 introductions and Patrick to do all the presenting.

2 Q. Didn't you recommend to some of your friends that they
3 invest in these opportunities?

4 A. No, I didn't recommend that they do. I said there's an
5 interesting opportunity. If that's considered recommending,
6 then I'm not sure.

7 Q. Didn't you say to them, I'm about to invest myself, I
8 suggest you do too?

9 A. Yes.

10 Q. Now, first of all, when you said to them that you are going
11 to invest yourself, was that a true statement?

12 A. Yes, it was. I was actually originally going to put I
13 think about 10 or \$20,000 of my own money, then I thought I
14 would be better served keeping my money and helping him in
15 other ways, making introduction.

16 Q. Sir, did you have the money at this time to invest or not?

17 A. Yes.

18 Q. You told us a moment ago that your funds were tight, you
19 didn't have money?

20 A. I said I had 10 to \$20,000 to invest. I was broke, but I
21 wasn't tight on cash.

22 Q. When you recommended to your friends that they invest, was
23 that a recommendation that they invest in securities or was it
24 not?

25 A. Well, I'm not sure. That's for, uh, legally to determine.

051Cgar4

Wachter - Cross

1 Q. Now, you were doing this on behalf of your friend,
2 Mr. Orlando; correct?

3 A. Correct.

4 Q. There was no contract between you; correct?

5 A. Correct.

6 Q. There was no document memorializing this relationship;
7 correct?

8 A. Correct.

9 Q. Nothing said in writing you how you would be paid; correct?

10 A. Correct.

11 Q. This was completely off the books; right?

12 A. Yes.

13 Q. And the reason it was off the books was because it was
14 illegal; correct?

15 MR. SHAHABIAN: Objection.

16 THE COURT: Overruled. It goes to his understanding.

17 You can answer with respect to your understanding and
18 why you did it off the books.

19 A. I didn't believe it was illegal, I just believed it needed
20 to be done the right way and I could only be compensated for
21 certain things and not for other things, for marketing, for
22 introductions, but not the solicitation of selling a security.

23 Q. Why didn't you put in writing that you were going around,
24 interesting potential investors in securities opportunities for
25 Mr. Orlando?

051Cgar4

Wachter - Cross

1 A. I just -- I didn't.

2 Q. There's a reason you didn't; correct?

3 A. Perhaps. I can't say what was in my mind at that moment,
4 but we didn't put an agreement together.

5 Q. It's one of the same reasons that you invoked the Fifth;
6 right?

7 A. Yes.

8 Q. Because you were concerned that what you were doing was not
9 legal and could be regarded as unlawful; correct?

10 A. Correct.

11 Q. Mr. Orlando was okay with this; right?

12 MR. SHAHABIAN: Objection.

13 THE COURT: Overruled.

14 A. I believe so.

15 Q. He didn't insist that you have a securities license;
16 correct?

17 A. Correct.

18 Q. He knew you didn't have one; correct?

19 A. Correct.

20 Q. And he told you, don't worry about that, I'll find a way to
21 take care of it; correct?

22 MR. SHAHABIAN: Objection.

23 THE COURT: Sustained.

24 A. He said --

25 THE COURT: Sir, the way it works, if there's an

O51Cgar4

Wachter - Cross

1 objection, you wait. If I sustain the objection, then the
2 lawyer moves on to another question. I sustained the
3 objection.

4 Go ahead, Mr. Bach.

5 Q. What did he say to you?

6 MR. SHAHABIAN: Objection.

7 THE COURT: Sustained.

8 Q. He told you he planned in the future to take care of you;
9 correct?

10 A. Yes.

11 Q. And that he planned to find some workaround, even though
12 you didn't have a license; correct?

13 A. Yes, he used the term "illegal workaround," but yes.

14 Q. And this legal workaround was never set forth in any legal
15 document between you and him; correct?

16 A. Correct.

17 Q. And you were never hired as an employee of DWAC; correct?

18 A. Correct.

19 Q. You were never hired as an employee of Benessere; correct?

20 A. Correct.

21 Q. You were never hired as an employee of something called the
22 Benessere Investment Group; right?

23 A. Correct.

24 Q. You had a verbal understanding with Mr. Orlando; correct?

25 A. Correct.

051Cgar4

Wachter - Cross

1 Q. And that understanding was somewhat loose; correct?

2 A. Yes.

3 Q. You didn't know what the terms were; right?

4 A. No.

5 Q. You just had a hope that he would find a workaround;
6 correct?

7 A. Correct.

8 THE COURT: Mr. Bach, it's now quarter of 1:00. Is it
9 a convenient time for us to take our lunch break?

10 MR. BACH: Yes, Judge.

11 THE COURT: Members of the jury, as I indicated
12 before, we're going to take a lunch break now until 2 o'clock,
13 but you should be back in the jury room around 10 of 2:00 or so
14 so we can get started promptly.

15 Have a good lunch. Don't talk about the case with
16 anybody, don't do any research on the case.

17 (Continued on next page)

O51Cgar4

Wachter - Cross

1 (Jury not present)

2 THE COURT: The witness can step down. You should be
3 here at 10 of 2:00, also.

4 Counsel, you can be seated.

5 Does the government wish to be heard with respect to
6 Ms. Shapiro's letter of this morning with respect to the
7 examination of Mr. Swider?

8 MS. HANFT: Your Honor, we've informed defense counsel
9 that those particular messages, if defense agrees not to cross
10 on them, we will not introduce them in our case in chief. My
11 understanding is that Ms. Shapiro wanted to consult with her
12 colleagues and then give us an answer on that.

13 THE COURT: And that applies to Government Exhibit
14 531, 532, and 533; is that right?

15 MS. HANFT: I believe so, off the top of my head, your
16 Honor. We received the letter five minutes before court
17 started.

18 THE COURT: You can look at my copy.

19 MS. SHAPIRO: Those were the text messages. Those are
20 the right numbers.

21 MS. HANFT: Yes, your Honor, 531, 2, and 3.

22 THE COURT: Ms. Shapiro, does that take care of the
23 issues? They're not going to be offered in the case in chief.

24 MS. SHAPIRO: We haven't had a chance to consult on
25 that.

O51Cgar4

Wachter - Cross

1 THE COURT: Why don't you consult quickly.

2 I indicated we would be addressing this at this time
3 and Mr. Swider's examination is coming this afternoon.

4 MR. BACH: We appreciate that. We truly are going as
5 fast.

6 MS. SHAPIRO: So, if we understand the government's
7 position correctly and what they're saying is they won't offer
8 them if we're not planning to cross examine Mr. Swider on
9 whether or not he kept the information confidential, we're
10 happy to make that deal. I just want to clarify that that's
11 what they're talking about.

12 THE COURT: Well, as I understood what was said is it
13 may include that, but it was also that the cross examination
14 would not be on 531, 532, and 533.

15 MS. SHAPIRO: That's correct, obviously because we
16 don't want the exhibits in evidence, correct.

17 MS. HANFT: Your Honor, I think that's right, except I
18 just want to clarify that Mr. Swider will, as previously
19 discussed, testify that he believed the information that he
20 received as a member of DWAC's board was confidential, was
21 important, and that he could not trade based on it.

22 THE COURT: I think that takes care of it,
23 Ms. Shapiro.

24 MS. SHAPIRO: Yes. Obviously, we already objected to
25 all that and your Honor overruled our objections, so that's

051Cgar4

Wachter - Cross

1 correct, your Honor.

2 THE COURT: Then I think that that takes care --

3 MS. SHAPIRO: There's one other matter in the
4 letter --

5 THE COURT: I think that takes care of your points 2,
6 3, 4, and 5, which are all the points with respect to
7 Mr. Swider.

8 MS. SHAPIRO: I think point 2 was a slightly different
9 point, but I may be getting the numbers wrong.

10 THE COURT: You're right. It takes care of 3, 4, and
11 5. There is the separate question with respect to the mistaken
12 purchase of one share of DWAC. So let me hear from the
13 government with respect to that.

14 MS. HANFT: Yes, your Honor. As we discussed the
15 other day, Mr. Swider will testify that although the
16 announcement of the merger had been made, he knew he was in
17 possession of confidential information and accordingly was not
18 sure if he was -- I think he used the phrase "cleansed of that
19 information," and therefore the purchase, which was accidental,
20 would be permissible. That is, again, relevant per *Mahaffey*,
21 per *Carpenter*, for reasons we've discussed to the way the
22 information was treated and its confidentiality.

23 THE COURT: If the purchase takes place on October 21
24 and the decision to purchase is October 21, what's your
25 response to the argument by Ms. Shapiro that it would be

O51Cgar4

Wachter - Cross

1 misleading under 403 because it could suggest to the jury that
2 it's improper for the director of a public company to trade in
3 its shares, that it's always necessarily improper and always
4 improper?

5 MS. HANFT: I don't think that that's what that
6 testimony suggests. I don't believe he's going to say it's
7 always improper for a director to purchase shares in the
8 company or anything along those lines, but he will explain that
9 he didn't know what information that he was in possession of
10 had been released to the world. And so, he was concerned about
11 the trade.

12 MS. SHAPIRO: Your Honor, it's also cumulative. The
13 403 problem clearly substantially outweighs any minimal
14 probative value. And the government is going to elicit from
15 him what they said they're going to elicit about directors'
16 duties and so forth. There's no need to add this additional
17 level of confusion by a director who seems to have
18 misunderstood that he couldn't trade and that can create the
19 suggestion that directors can never trade, which is extremely
20 prejudicial given our defense and the arguments that the jury
21 is going to have to grapple with.

22 THE COURT: I'm going to overrule that objection. I
23 will give a limiting instruction, if you want me to, that could
24 disabuse the jury of any notion that it's always improper for a
25 director to trade in the shares of a public company of which he

O51Cgar4

Wachter - Cross

1 or she is a director. If there's some language that you think
2 I should give as a limiting instruction, you can go over it
3 with the government first and you can propose it to me.

4 I'll see you a couple minutes before 2:00.

5 Is there anything else?

6 MS. SHAPIRO: Your Honor, just a quick followup --
7 withdrawn.

8 THE COURT: Mr. Brod.

9 MR. BROD: Judge, we would ask for the usual
10 instruction that the prosecution team not confer with the
11 witness during the lunch break as he's on cross.

12 THE COURT: You want to make sure that the government
13 doesn't confer with the witness while he's on cross.

14 I'll direct the government not to confer with the
15 witness while he's on cross examination.

16 MR. SHAHABIAN: Of course, your Honor.

17 THE COURT: Anything else from the government?

18 MR. SHAHABIAN: I'd just flag on the Court's proposed
19 limiting instruction. The government's position is, in this
20 particular case, there were agreements executed by directors of
21 DWAC prohibiting them from trading at all absent preclearance
22 from E.F. Hutton. I think it would be misleading to suggest
23 that to the jury, given the facts of this case.

24 THE COURT: If there is a limiting instruction that
25 the parties can agree on or one that Ms. Shapiro proposes, I'll

O51Cgar4

Wachter - Cross

1 consider it and then you can make your argument. At this
2 point, that point is moot. I don't think that the government's
3 contention here is that it constitutes insider trading for
4 somebody to trade on the basis of information that has already
5 been publicly disclosed.

6 MR. SHAHABIAN: No, that's not the government's
7 position.

8 THE COURT: See you all back here by 2:00 p.m.

9 (Luncheon recess)

10 (Continued on next page)

O511GAR5

Wachter - Cross

AFTERNOON SESSION

2:05 p.m.

THE COURT: Any reason why we can't put the witness on the stand and bring the jury in?

MR. BACH: No, your Honor.

MR. SHAHABIAN: No, your Honor.

THE COURT: All right. Let's get the witness and we'll bring the jury.

Mr. Fishman, let's bring in the jury.

Sir, step forward into the witness box.

(Jury present)

THE COURT: Be seated.

Welcome back, members of the jury.

Mr. Bach, you may inquire.

MR. BACH: Thank you, Judge.

CROSS-EXAMINATION CONTINUED

BY MR. BACH:

Q. Mr. Wachter, before the break, we were talking about a loose understanding that you had with Mr. Orlando that you would help him recruit wealthy people to invest in return for his planning to take care of you at some point, correct?

A. Correct.

Q. And you acted and moved forward on the basis of that loose understanding, correct?

A. Correct.

0511GAR5

Wachter - Cross

1 Q. And you introduced Mr. Orlando to a number of very wealthy
2 people, correct?

3 A. Correct.

4 Q. One of those people was Gerald Shvartsman, correct?

5 A. Correct.

6 Q. Gerald Shvartsman is a buddy of yours, correct?

7 A. Correct.

8 Q. A very close friend.

9 A. Correct.

10 Q. You've known him for over ten years, right?

11 A. Yes.

12 Q. You text with him all the time, right?

13 A. Well, I wouldn't say all the time, but we go through
14 periods, but yes.

15 Q. He's offered your father-in-law a job, right?

16 A. Oh, my father-in-law did handyman work, so, yeah, at one
17 point he just wouldn't—he said he had an opportunity for him,
18 yes.

19 Q. And you and he, Mr. Shvartsman, sometimes have what you
20 refer to as "boys nights out," correct?

21 A. Well, rarely, but yes.

22 Q. And boys nights out are when a group of guys go out?

23 A. I mean, it didn't happen probably more than a couple of
24 times in the last several years—we're both married with kids,
25 but—yes.

0511GAR5

Wachter - Cross

1 Q. And apart from your very close friend Gerald Shvartsman,
2 you were also—you also knew that he had a brother named
3 Michael, correct?

4 A. Correct.

5 Q. And Gerald is in the furniture business, correct?

6 A. Correct.

7 Q. But you knew that Michael was in the investment business,
8 correct?

9 A. Correct.

10 Q. And you arranged to introduce Gerald and Michael Shvartsman
11 to Mr. Orlando, correct?

12 A. Correct.

13 Q. And you introduced other people to Mr. Orlando as well.

14 A. Correct.

15 Q. And Mr. Shvartsman, whom you introduced, formed a whole
16 group or syndicate of investors for Mr. Orlando, correct?

17 A. Correct.

18 Q. And you kept a tally in your head of the approximate amount
19 of money that your recruiting efforts were bringing into this
20 deal, correct?

21 A. Correct.

22 Q. And in the founders round, just the founders round—that's
23 the first stage, right?

24 A. Yes.

25 Q. The tally in your head was that you brought in more than

0511GAR5

Wachter - Cross

1 \$5 million worth of founders shares investors, correct?

2 A. Correct.

3 Q. And of those, the tally in your head was that one
4 individual, Anton Postolnikov, invested \$4.5 million, correct?

5 A. I don't know the exact number, but that sounds—that sounds
6 about right.

7 Q. He, Mr. Postolnikov, is a gentleman that you met, correct?

8 A. Correct.

9 Q. And he invested above and beyond, far above and beyond what
10 anyone else put into this syndicate, correct?

11 A. Correct.

12 Q. And after you arranged these introductions and meetings,
13 you figured in your head that you were owed something in
14 return, correct?

15 A. Correct.

16 Q. Let's now talk about what you got in return.

17 DWAC never paid you anything, correct?

18 A. No.

19 Q. There's no official DWAC ledger or accounting spreadsheet
20 showing any direct payment to you, correct?

21 MR. SHAHABIAN: Objection.

22 MR. BACH: I'll reword it.

23 THE COURT: Sustained.

24 Q. To your knowledge, sir, there's no official DWAC document
25 or statement showing any direct payment to you?

0511GAR5

Wachter - Cross

1 MR. SHAHABIAN: Objection.

2 THE COURT: Overruled.

3 A. Correct.

4 Q. Mr. Orlando never arranged for you to receive any DWAC
5 shares or securities, correct?

6 MR. SHAHABIAN: Objection.

7 THE COURT: Overruled.

8 A. Can you repeat the question.

9 Q. You never received any DWAC shares or securities from
10 Mr. Orlando, correct?

11 A. Correct.

12 Q. You got no founders shares from him, correct?

13 A. Correct.

14 Q. For founders shares, you understood that people who
15 invested in DWAC had to sign something called a subscription
16 agreement, correct?

17 A. Correct.

18 Q. And that subscription agreement would memorialize their
19 ownership interests, correct?

20 A. Correct.

21 Q. You never signed a subscription agreement, correct?

22 A. Correct.

23 Q. If someone went to your house in 2021 and knocked on your
24 door and said, show me something from DWAC that says you own
25 DWAC founders shares, you would have nothing to show them,

0511GAR5

Wachter - Cross

1 correct?

2 MR. SHAHABIAN: Objection.

3 THE COURT: Let me see you at sidebar.

4 (Continued on next page)

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Wachter - Cross

1 (At the sidebar)

2 THE COURT: What's the basis of the objection?

3 MR. SHAHABIAN: Form. Asking what he would show
4 someone if someone showed up at his door, I mean, this is not
5 proper form of questioning.

6 THE COURT: It's cross-examination. You can go ahead.

7 MR. BACH: Thank you.

8 (Continued on next page)

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Wachter - Cross

1 (In open court)

2 BY MR. BACH:

3 Q. Mr. Wachter, let me repeat my question.

4 If I went to your house in 2021—let me reword it.

5 If someone went to your house in 2021, knocked on your
6 door, and said, show me something from DWAC that says you own
7 DWAC founders shares, you would have nothing to show them,
8 correct?

9 A. Correct.

10 Q. Now you testified on direct that you gave up your founders
11 shares before the merger announcement, correct?

12 A. Correct.

13 Q. Sir, that's all make-believe, isn't it?

14 A. Yes.

15 Q. Because you didn't have any shares, correct?

16 A. Well, I didn't have shares, but I got authorization from,
17 from the counsel of DWAC that I was having shares coming to me
18 and they—they authorized this transaction to be done.

19 Q. Well, we're going to talk about that. But you never
20 received any shares, correct?

21 A. No.

22 Q. And you didn't have any documents showing that you had
23 shares, correct?

24 A. Correct.

25 Q. And so when you say you wish you had held onto your shares

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Wachter - Cross

1 until after the announcement, that's a fantasy, right?

2 A. I wouldn't use the word fantasy.

3 Q. You didn't have any shares, correct?

4 A. I had been told I was—had a future interest in those
5 shares.

6 Q. Now what happened was, you had a friend named Zoltan
7 Person, correct?

8 A. Correct.

9 Q. And your wife and his wife were very close, correct?

10 A. Correct.

11 Q. And you found a way to get some money for your work, not
12 from DWAC and not from Patrick Orlando but from a third party,
13 correct?

14 A. Correct.

15 Q. And that third party was—

16 A. Excuse me.

17 Q. —was Zoltan Person, correct?

18 A. Can you repeat that last part.

19 Q. That third party was Zoltan Person, correct?

20 A. Zoltan Present.

21 Q. I'm sorry. Thank you. Zoltan—your friend was named
22 Zoltan Present.

23 A. Correct.

24 Q. And this was a way to arrange for you to get paid without
25 Mr. Orlando paying directly, correct?

1 A. Correct.

2 Q. This was the work-around that he was planning, correct?

3 A. No.

4 Q. Well, this was a way to pay you without any official record
5 from DWAC of any payment to you, correct?

6 A. That was not the purpose of the transaction.

7 Q. Okay. Let's talk about the transaction.

8 You got paid how much, a hundred thousand dollars?

9 A. Correct.

10 Q. Who paid you that money?

11 A. Zoltan.

12 Q. When did he pay it to you?

13 A. About a month after the merger announcement.

14 Q. Okay. And by the way, even if you had shares, shares would
15 not be transferable or sellable a month after the merger
16 announcement, correct?

17 A. Well, certainly not sellable.

18 Q. And the people who had founders shares had to hold onto
19 them, they were restricted, correct?

20 A. Correct.

21 Q. But you found a way to monetize the shares that existed in
22 your head before the time that people who had real founders
23 shares could make money on them, correct?

24 MR. SHAHABIAN: Objection.

25 THE COURT: Overruled.

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Wachter - Cross

1 A. Yes.

2 Q. Patrick Orlando knew you were doing that, correct?

3 A. Correct.

4 Q. He didn't try and stop you, did he?

5 A. No.

6 Q. And it was a lawyer named Alex Manje involved, correct?

7 A. Correct.

8 Q. And he knew this was going on?

9 A. Yes.

10 Q. He didn't try and stop you, right?

11 A. No.

12 Q. And he was the lawyer for Mr. Orlando's SPAC?

13 A. Yes.

14 Q. And he blessed this?

15 A. Yes.

16 Q. Let's look at the agreement.

17 MR. BACH: Let's pull up Government Exhibit 830.

18 Q. You were asked some questions about this by Mr. Shahabian
19 on direct. Do you remember that?

20 A. Yes.

21 Q. And this is an agreement between you on the one hand and
22 your friend Zoltan Present on the other hand, right?

23 A. Yes.

24 Q. And it says it's entered into this 16th day of October,
25 correct?

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Wachter - Cross

1 A. Correct.

2 Q. Now you say that—okay. So looking at this agreement,
3 there's no signature by Patrick Orlando, correct?

4 A. Correct.

5 Q. There's no signature by his attorney Alex Manje, correct?

6 A. Correct.

7 Q. This agreement nowhere sets forth any obligation of Patrick
8 Orlando to pay you any money, correct?

9 A. Correct.

10 Q. It nowhere sets forth any obligation of DWAC to pay you any
11 money, correct?

12 A. Correct.

13 Q. You say that Mr. Manje worked on or reviewed this
14 agreement?

15 A. Yes.

16 Q. He's not your lawyer, right?

17 A. No.

18 Q. He's the lawyer for DWAC and Mr. Orlando, correct?

19 A. Yes.

20 Q. He looked at this agreement to make sure that there was no
21 obligation stated—

22 MR. SHAHABIAN: Objection.

23 THE COURT: Sustained.

24 Q. Did he play a role in drafting this agreement?

25 A. I believe so.

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Wachter - Cross

1 Q. And he drafted it so that there is no stated obligation by
2 Mr. Orlando or DWAC anywhere on the face of this agreement,
3 correct?

4 MR. SHAHABIAN: Objection.

5 THE COURT: Sustained.

6 A. No.

7 THE COURT: The objection was sustained, so the answer
8 is stricken.

9 Sir, let me give you the instruction that if I sustain
10 an objection, you don't answer the question. If I overrule an
11 objection, then you answer the question.

12 Go ahead, Mr. Bach.

13 BY MR. BACH:

14 Q. And you got a hundred thousand dollars from Zoltan Present
15 about a month after this, correct?

16 A. Correct.

17 MR. BACH: And can we go to the first page.

18 Q. It says, in paragraph 2, "Closing. Delivery of unit." Do
19 you see that?

20 A. Yes.

21 Q. "Buyer understand and acknowledges that the closing of the
22 sale contemplated by this agreement may be subject to legal
23 restrictions." Do you see that?

24 A. Yes.

25 Q. "Accordingly, the closing shall take place as soon as all

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Wachter - Cross

1 such restrictions are no longer in force, it being the intent
2 of the parties that nothing in this agreement shall violate any
3 applicable law." Do you see that?

4 A. Yes.

5 Q. So what was your understanding of the wording here that
6 says, "the closing shall take place as soon as all such
7 restrictions are no longer in force"?

8 A. That as soon as I was able to receive those shares, they'd
9 be transferred to him and he would—when all legal restrictions
10 no longer applied, the sale would be completed.

11 Q. In other words, if you had founders shares, they would be
12 restricted like all founders shares, correct?

13 A. Yes.

14 Q. And the wording here says that, so as not to violate any
15 applicable law, no closing will take place until the point in
16 time when those restrictions no longer apply, correct?

17 A. Correct.

18 Q. But you got paid within a month, correct?

19 A. Correct.

20 Q. How did you treat that payment for tax purposes?

21 A. I'm not exactly sure. I'd have to check with my
22 accountant.

23 Q. You didn't report it on your taxes, did you, sir?

24 A. I'm—I'm not saying I didn't. I'm saying I'm not sure how
25 the—my accountant reported it.

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Wachter - Cross

1 Q. Were you ever issued a W-2 or a 1099—

2 A. No.

3 Q. —in connection with these funds?

4 A. No.

5 MR. BACH: Now we'll take this down.

6 Q. In addition, Mr. Orlando has paid you some cash, correct?

7 A. Yes. Well, actually, let me clarify that. He's loaned me
8 some cash.

9 Q. Okay. When did Mr. Orlando loan you cash, sir?

10 A. I don't know the dates.

11 Q. Roughly.

12 A. Sometime maybe 2022; sometime in 2022.

13 Q. How much cash did he loan you?

14 A. I don't know.

15 Q. You don't have any idea?

16 A. No.

17 Q. Is there any document that memorializes that loan?

18 A. I'm sure there is. I don't have it.

19 Q. Did he pay you from his personal funds?

20 A. I don't believe so.

21 Q. Did he pay you from DWAC?

22 A. No, I don't believe so.

23 Q. Where—tell the jury where he paid you from.

24 A. I don't know what—

25 MR. SHAHABIAN: Objection.

1 THE COURT: Overruled.

2 A. One of his entities.

3 Q. He paid you through an entity called Entoro, correct?

4 A. That I'm not sure about. Entoro is a securities agency,
5 entity, where Patrick holds his license.

6 Q. Where what?

7 A. Patrick holds his securities license with Entoro.

8 MR. BACH: Can we show the witness DX—Defense
9 Exhibit 75.9.

10 Q. Do you recognize this?

11 A. I just see something that says Mark Wachter MSA, four-page
12 document, omitted referral—

13 MR. SHAHABIAN: Objection.

14 THE COURT: Don't read it. You're just being asked if
15 you recognize the document or recognize the message. But it's
16 not in evidence so you shouldn't read it.

17 MR. BACH: Can we show Mr. Wachter a little more
18 content here so he can see the—let's show him the fuller
19 Exhibit 75.

20 Apologies. We're trying to deal with a lengthy—

21 BY MR. BACH:

22 Q. Showing you what's marked for identification as Defense
23 Exhibit 75. Do you recognize this as text messages between you
24 and Mr. Orlando?

25 A. Yes.

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Wachter - Cross

1 Q. Okay. I want to focus your attention on a portion of them,
2 and I'm going to ask you to look at 75.9. Do you recognize
3 this as a portion of the texts between you and Mr. Orlando—

4 A. Yes.

5 Q. —on or about February 27, 2022?

6 A. Yes.

7 MR. BACH: We offer this.

8 THE COURT: Any objection?

9 MR. SHAHABIAN: Objection. Relevance.

10 THE COURT: Overruled.

11 (Defendant's Exhibit 75.9 received in evidence)

12 MR. BACH: Could we please publish 75.9 for the jury.

13 THE COURT: Are you offering just that portion,
14 Mr. Bach?

15 MR. BACH: For now, yes.

16 THE COURT: Okay. So we'll do the same thing with
17 this exhibit that you're going to do with the other exhibits,
18 and this portion will become Defense Exhibit 75-A.

19 MR. BACH: Thank you. And we tried to do that. We
20 called it 75.9, but we can go to the letters.

21 BY MR. BACH:

22 Q. Okay. Mr. Wachter, do you see where this says, "Entoro MSA
23 Wachter four pages document omitted"? Do you see that?

24 A. Yes.

25 Q. And then it says, "Referral fee agreement, Entoro, six

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Wachter - Cross

1 pages"?

2 A. Yes.

3 Q. Okay. Mr. Orlando arranged to pay you a referral fee
4 through an entity called Entoro, correct?

5 A. Yes.

6 Q. And that was referrals for people who were investing in
7 securities that he was offering, correct?

8 A. Yes.

9 Q. And you and he made this arrangement even though you didn't
10 have a license to sell securities, correct?

11 A. Yes.

12 Q. And if someone subpoenaed—if someone went to Entoro and
13 asked to see documents and records, they might see this
14 document, correct?

15 A. Correct.

16 Q. But if someone went to DWAC and asked to see this document,
17 do you know whether they would see it?

18 A. I don't know.

19 Q. This was done, sir, so that there would be no record inside
20 DWAC of the interactions that you were having—

21 THE COURT: Sustained.

22 A. No.

23 THE COURT: Sustained.

24 MR. BACH: I'll withdraw.

25 Q. Did you pay taxes—well, how much money did you receive

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Wachter - Cross

1 pursuant to this referral fee arrangement?

2 A. I don't remember what the number is, but you have the
3 referral fee agreement. It probably says.

4 Q. And did you pay taxes on it?

5 A. I believe I did.

6 Q. Now as you understood it—we can take that down—the more
7 you helped Mr. Orlando, the more he planned to help you,
8 correct?

9 A. Correct.

10 Q. And you made as many introductions to wealthy people for
11 him as you could, correct?

12 A. Correct.

13 Q. And to make those introductions, first you had to talk to
14 the wealthy people, correct?

15 A. Correct.

16 Q. And you had to interest them in Mr. Orlando, correct?

17 A. Correct.

18 Q. And so before introducing them to Mr. Orlando, you would go
19 and meet with these wealthy individuals or talk with these
20 wealthy individuals by yourself, correct?

21 A. Correct.

22 Q. And when you met with them by yourself, you told them about
23 Mr. Orlando, correct?

24 A. Correct.

25 Q. And you told them that—by the way, did you tell them that

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Wachter - Cross

1 Mr. Orlando had ever successfully connected a SPAC with a
2 target operating company before?

3 A. My conversations typically did not get that comprehensive.
4 It was more of teeing up a meeting.

5 Q. And the way you teed up a meeting was by dangling the name
6 Donald Trump, correct?

7 A. I wouldn't use that phrase, but certainly was helpful that
8 he had a relationship with Mr. Trump.

9 Q. And you would talk about that when you got together with
10 wealthy individuals to urge them to meet with Patrick Orlando,
11 correct?

12 A. Correct.

13 Q. And that was—you thought that just mentioning the former
14 president's name and Mr. Orlando's relationship with him would
15 be a good way to bring in potential investors, correct?

16 A. Correct.

17 Q. And I think you testified on direct that you and
18 Mr. Orlando started having these discussions and this working
19 arrangement in June of 2021, correct?

20 A. It's the first time he mentioned the SPACs. I wouldn't say
21 that that was probably the first time that we talked about the
22 business relationship. I believe I was considering investing
23 myself at that time.

24 Q. But you said that you and he didn't start discussing Trump
25 Media Group until June, correct? That's what you said on

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Wachter - Cross

1 direct.

2 A. Yes, but I don't remember when we first had our first
3 meeting. I thought it was—I thought that was also around
4 June. So I'm not sure of the exact dates.

5 Q. Well, you signed an NDA on June 2nd, correct?

6 A. Correct. That was originally for me to invest myself.

7 Q. Okay. And on direct, you said that you started discussing
8 Trump with Mr. Orlando at the time—at or around the time that
9 you signed this confidentiality agreement, correct?

10 MR. SHAHABIAN: Objection.

11 THE COURT: Sustained.

12 Q. On direct, you said that you and Mr. Orlando began these
13 discussions in June 2021, correct?

14 A. Correct.

15 Q. All right. In fact, sir, you and he began discussing Trump
16 much earlier, correct?

17 A. No.

18 Q. Didn't you start discussing this with him in April?

19 A. I don't know. I don't know the dates.

20 Q. Let me show you what's been marked for identification as
21 Government Exhibit 502.

22 MR. BACH: Could we show just the witness,
23 Ms. McFerrin, Government Exhibit 502 on April—can't tell if
24 it's April 29th or April 30th. April 29.

25 Q. Do you see that?

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Wachter - Cross

1 A. Yes.

2 Q. That's a—that was—those are text messages between you and
3 Mr. Orlando on or around April 29, 2021, correct?

4 A. Correct.

5 MR. BACH: We offer it, this page.

6 THE COURT: Any objection?

7 MR. SHAHABIAN: Objection.

8 THE COURT: Basis?

9 MR. SHAHABIAN: I don't believe the foundation for
10 impeachment has been laid.

11 THE COURT: Sustained.

12 BY MR. BACH:

13 Q. Well, on April 29th, Mr. Orlando sent you an article from a
14 publication called zerohedge.com, correct?

15 MR. SHAHABIAN: Objection. Misstates the record.

16 MR. BACH: I'm sorry.

17 THE COURT: Overruled.

18 MR. BACH: Let me withdraw that question and reword
19 it.

20 Q. On April 29th, you sent Mr. Orlando an article that was in
21 a publication called zerohedge.com, correct?

22 MR. SHAHABIAN: Objection.

23 THE COURT: Let me see you at sidebar.

24 (Continued on next page)

25

1 (At the sidebar)

2 THE COURT: Mr. Shahabian.

3 MR. SHAHABIAN: No foundation has been laid to admit
4 the hearsay, and counsel is now just reading to the jury, and
5 there's been no foundation laid for an adequate impeachment.
6 The questions have been confusing. The witness said he first
7 talked about the SPAC deals in the summer of 2021 with
8 Mr. Orlando. Sending him an article from a publication called
9 Zero Hedge is not what he was questioning about, and so to
10 start reading hearsay into the record to suggest an impeachment
11 and offer it for its truth is improper.

12 MR. BACH: I'm going to show that there's additional
13 communications in April in which he is discussing Trump with
14 Mr. Orlando and others without an NDA. I'm not offering this
15 in for the truth of what's stated in that Zero Hedge article.
16 It's for the fact that this is what transpired, this is the
17 history, the fact that it was said, that they're having these
18 communications, and I'm going to show that contrary to what he
19 testified to on direct, that starting as early as April, he was
20 beginning to start to pitch people, including SPACs.

21 THE COURT: Well, I mean, you conflated a couple of
22 things there.

23 I think with respect to impeachment, Mr. Shahabian's
24 point is well taken, that you're not impeaching a statement
25 that he made on direct.

1 What I hear you also saying is that you're trying to
2 offer this as affirmative proof with respect to when the
3 discussions began about the SPAC, and this article doesn't show
4 anything about there being a discussion about a SPAC.

5 MR. BACH: Well, Judge, I'm going to get to that, and
6 I'm going to show that there were discussions with SPAC. But I
7 think I'm entitled to tell the story, to show that there
8 is—part of our defense here is that there is a discussion that
9 begins early on between Shvartsman brothers and Mr. Wachter
10 that's independent of—

11 THE COURT: In early when?

12 MR. BACH: In April. Remember that Mr. Garelick is
13 not involved until June 18. And I think—

14 THE COURT: I just didn't hear the month you said.

15 MR. BACH: And I think it's critical to show—I think
16 there's no prejudice to this evidence and it's critical to show
17 that in April, Mr. Wachter is already kind of warming up the
18 audience on these Trump SPACs and talking to Mr. Shvartsman
19 about this, it's being done without NDAs, it's not being
20 treated as confidential, and that's part of our defense, and—

21 THE COURT: But how is that relevant to the
22 materiality of the exclusivity agreements and the information
23 that is conveyed in June?

24 MR. BACH: Well, I think also, as part of the
25 relationships that go to the alternative tipping theory, it's

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Wachter - Cross

1 going to show that there are—there is this independent line of
2 communications and discussions that are separate and apart from
3 Mr. Garelick, that have to do with Trump and SPACs. I mean,
4 we're entitled to present a defense here.

5 MR. SHAHABIAN: I just don't think that a foundation
6 has been laid right now to put this document in.

7 THE COURT: I'll permit the line of examination. I
8 think you can inquire on that on redirect.

9 MR. BACH: Thank you.

10 (Continued on next page)

(In open court)

BY MR. BACH:

Q. Mr. Wachter, on April 29th, you sent a text message to Mr. Orlando that forwarded an article published in a publication called zerohedge.com, correct?

A. Correct.

Q. And the title of that article is "Pitch for Trump Media Group values president's brand at \$15 billion," correct?

A. Correct.

Q. Then, around the same time, you contacted your very close friend Gerald Shvartsman, you talked to him about SPAC opportunities, correct?

A. Correct.

Q. That wasn't in June, correct?

A. I don't remember when it was, but we met in June, so it had to be sometime prior to when we met.

Q. You hadn't signed an NDA at this point in April, correct?

A. I don't remember the date when I signed the NDA was.

Q. Okay. And you told—contacted Gerald Shvartsman on April 28th to see if he's interested in learning more about a SPAC opportunity, correct?

A. Correct.

Q. And you told him that you were planning to invest yourself, correct?

A. I'd have to see the text, but sounds very possible.

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Wachter - Cross

1 MR. BACH: Let's show the witness Defense
2 Exhibit 73.3.

3 Q. Let me know when you're ready, sir.

4 A. I read it.

5 Q. Do you recognize that text?

6 A. Yes.

7 Q. What is it?

8 A. Text exchange between myself and Gerald Shvartsman.

9 MR. BACH: We offer it.

10 MR. SHAHABIAN: Objection.

11 THE COURT: Overruled.

12 (Defendant's Exhibit 73.3 received in evidence)

13 MR. BACH: Could we publish it, please, to the jury.

14 Has it been published? Thank you.

15 BY MR. BACH:

16 Q. Referring your attention to the top text on this page, this
17 is a text from you to Gerald. Do you see that?

18 A. Yes.

19 Q. And it says, "Good morning. Let me know if you are still
20 interested in learning more about the SPAC opportunity. I'm
21 planning to invest today." Do you see that?

22 A. Yes.

23 Q. Did you invest that day?

24 A. No.

25 Q. And then you go on to write, "I think it's worth a look.

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Wachter - Cross

1 Would love to know what you and your brother think." Do you
2 see that?

3 A. Yes.

4 Q. And the brother was Michael Shvartsman, correct?

5 A. Correct.

6 Q. And you started reaching out to Gerald and Michael about
7 SPAC opportunities in April, correct?

8 A. At the very end of April, but yes.

9 Q. And you got together with Gerald—we can take that down,
10 please—you got together with Gerald and Michael Shvartsman
11 before they ever met Mr. Orlando, correct?

12 A. I'm not aware of that.

13 Q. Well, you told them about the Trump opportunity before they
14 signed any NDA, correct?

15 A. I'm not aware of that either.

16 Q. Well, on June 13, you called Michael Shvartsman on the
17 phone, correct?

18 A. I—I would have to see a record. I—I can't recall who I
19 called back from three years ago.

20 MR. BACH: Can we please show the witness Defense
21 Exhibit 75.2.

22 Q. Do you see that, sir?

23 A. Yes.

24 Q. Take a moment; let me know when you're ready.

25 A. Okay.

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Wachter - Cross

1 Q. Do you recognize this?

2 A. Yes.

3 Q. What is it?

4 A. It's a text exchange between myself and I'm assuming—I
5 don't see who it's with, but I'm assuming it's with probably
6 Patrick Orlando.

7 Q. On June 13, 2021, correct?

8 A. Correct.

9 MR. BACH: We offer it.

10 MR. SHAHABIAN: No objection.

11 THE COURT: Received.

12 (Defendant's Exhibit 75.2 received in evidence)

13 MR. BACH: Could we publish it to the jury, please.

14 Q. Take a look at it. At the top, on June 13th, you write,
15 "Just spoke with Mike Shvartsman. Told me he's ready to invest
16 in Digital. Planning to speak with him tomorrow to get him
17 paperwork. If he does, it's likely his brother Gerald is also
18 coming in too. Good guys for this and future deals. Very
19 connected." Do you see that?

20 A. Yes.

21 Q. And then at 3:44, you write, "He's also very smart money."
22 Do you see that?

23 A. Yes.

24 Q. What did you mean by that?

25 A. That he had good connections.

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Wachter - Cross

1 Q. And then just a couple days later, on June 16th, you saw
2 Michael Shvartsman in person, correct?

3 A. Correct.

4 Q. Without Mr. Orlando, correct?

5 A. Well, that, I don't know.

6 Q. Well, you didn't meet with Michael Shvartsman and Patrick
7 Orlando together until you had the meeting at Rocket One's
8 offices in Florida on June 18th, correct?

9 A. Yes.

10 Q. So on June 16th, when you got together with Michael
11 Shvartsman, that was just you and Michael Shvartsman, without
12 Mr. Orlando, correct?

13 A. I don't—I'm not aware of that meeting.

14 Q. Okay. Let me show you Defense Exhibit 86.1.

15 Let me ask you, did you see Michael Shvartsman on the
16 evening of June 16, 2021?

17 A. The only thing I could remember—I've never had a
18 one-on-one meeting with Michael Shvartsman, ever, so the only
19 thing that I can speculate is that it was a group dinner with a
20 bunch of guys.

21 Q. Right. It was a boys night out, correct?

22 A. Yeah.

23 Q. Correct?

24 A. That sounds right.

25 Q. So this is on June 16th, correct?

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Wachter - Cross

1 A. Correct.

2 Q. Michael's there, correct?

3 A. Correct.

4 Q. Gerald's there, correct?

5 A. Correct.

6 Q. And people are having a good time, correct?

7 A. Correct.

8 Q. And Mr. Orlando is not there, correct?

9 A. No.

10 Q. And you raised DWAC with them, correct?

11 A. No.

12 Q. You don't mention to them DWAC?

13 A. The dinner was a social event. I believe I knew we were
14 going to be meeting a few days later.

15 Q. Well, you begin, even before the June 18th meeting,
16 discussing warrants with Michael Shvartsman, correct?

17 A. I was discussing warrants with him?

18 Q. Yes.

19 A. Again, I can't answer these without seeing context. I need
20 to see the message. This is three years ago. I don't know
21 what I said or didn't say.

22 Q. Didn't you tell Mr. Orlando before the June 18th meeting
23 that Michael Shvartsman was particularly interested in
24 warrants?

25 A. I may have, but I'd need to see that message.

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Wachter - Cross

1 Q. Okay. Let me see if I can refresh your recollection.

2 A. Okay.

3 Q. Show him Defense Exhibit 75.4.

4 A. Okay.

5 Q. Okay. Now do you recognize this?

6 A. Excuse me?

7 Q. Do you recognize this document?

8 A. Yes.

9 Q. What is it?

10 A. Well, it's Patrick saying, "By the way, I can sell warrants
11 and—"

12 Q. Before you get there—

13 A. Oh.

14 THE COURT: Remember, when you're asked, what is the
15 document, don't read it. Don't read the context.

16 A. It's a text message exchange between Patrick Orlando and
17 myself.

18 MR. BACH: We offer it.

19 MR. SHAHABIAN: Objection.

20 THE COURT: Overruled.

21 (Defendant's Exhibit 75.4 received in evidence)

22 MR. BACH: Publish it to the jury, please.

23 Q. You see this is on June—these are texts between you and
24 Mr. Orlando on June 17th, correct?

25 A. Correct.

0511GAR5

Wachter - Cross

1 Q. That's the day before the meeting at Rocket One, correct?

2 A. Correct.

3 Q. And by the way, you've never—the name Bruce Garelick
4 hasn't entered your universe at this point in time, correct?

5 A. Correct.

6 Q. And Patrick Orlando writes to you, "By the way, I can sell
7 warrants and warrants package cheaper to Mike." Do you see
8 that?

9 A. Yes.

10 Q. And that's a reference to Michael Shvartsman, correct?

11 A. Correct.

12 Q. Because you've told Mr. Orlando that Michael is interested
13 in warrants, correct?

14 A. I must have.

15 Q. Then you tell Mr. Orlando that you're setting up a meeting
16 for the next day, correct?

17 A. Correct.

18 Q. So before the meeting on June 18th, you had mentioned Trump
19 and Trump Media Group to Michael and Gerald Shvartsman,
20 correct?

21 A. I believe so. I can't say with certainty.

22 Q. And you began discussing the prospect of purchasing
23 warrants with them, correct?

24 A. I wouldn't use that terminology, but I'm—I assume that he
25 must have said he was interested in warrants and I shared it

O511GAR5

Wachter - Cross

1 with Patrick.

2 Q. And these discussions of Trump and warrants are all before
3 any meeting with Mr. Garelick, correct?

4 A. Correct.

5 Q. Now when you were sent that NDA in June, you signed it,
6 correct?

7 A. Correct.

8 Q. But you never read it, correct?

9 A. Well, I can't recall.

10 Q. Well, you've met with the prosecutors in this case,
11 correct?

12 A. What's that?

13 Q. You met with the prosecutors in this case, correct?

14 A. Yes.

15 MR. BACH: One moment.

16 I'm sorry. Just bear with us.

17 Q. Let me see if I can refresh your recollection. Do you
18 remember whether or not you read the NDA?

19 A. No.

20 Q. Let me see if I can refresh your recollection. Let me show
21 you—

22 MR. BACH: Without publishing it to the jury, can we
23 show him, Ms. McFerrin, 3514-07, at the top of page 3.

24 Q. If you could read that first paragraph all the way down to
25 the bottom.

051Cgar6

Wachter - Cross

1 THE COURT: You're being asked to read it to yourself,
2 not out loud.

3 MR. BACH: Yes.

4 (Continued on next page)

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051Cgar6

Wachter - Cross

1 BY MR. BACH:

2 Q. Now, does that refresh your recollection about whether or
3 not you read the NDA?

4 A. I obviously stated at one point --

5 THE COURT: No. You're not being asked what you
6 stated. Does it bring back a memory for you?

7 A. No, not really.

8 Q. As you sit here today, can you say whether you actually
9 read the NDA?

10 A. I can't say for sure.

11 Q. And you can't say for sure what was or was not allowed to
12 be shared, what information was or was not allowed to be
13 shared; correct?

14 A. Correct.

15 Q. You weren't sure what was allowed to be shared or not
16 shared in June 2021; correct?

17 A. Correct.

18 Q. Now, after you had met with Michael Shvartsman and texted
19 with Gerald Shvartsman, you arranged for them to meet with
20 Patrick Orlando on June 18th; correct?

21 A. Correct.

22 Q. That was at the Rocket One offices in Aventura, Florida?

23 A. Correct.

24 Q. And you were in the room, Michael was in the room, Gerald
25 was in the room, and Patrick Orlando was in the room, as well;

051Cgar6

Wachter - Cross

1 correct?

2 A. Correct.

3 Q. And Bruce Garelick was not in the room; correct?

4 A. Correct.

5 Q. And he was not even participating in any way at the
6 beginning of the meeting; correct?

7 A. Correct.

8 Q. And at some point during the meeting, he was connected
9 remotely; correct?

10 A. I believe so.

11 Q. Do you remember at what point in the meeting he was
12 connected?

13 A. No.

14 Q. You said on direct that there was a document shown at the
15 meeting. Do you remember that?

16 A. Yes.

17 Q. Benessere LOI; correct?

18 A. Correct.

19 Q. Do you know whether Mr. Garelick joined the meeting before
20 or after that document was shown?

21 A. I don't know.

22 Q. At the meeting, there was a discussion about Trump Media
23 Group; correct?

24 A. Correct.

25 Q. There was discussion about other potential targets;

051Cgar6

Wachter - Cross

1 correct?

2 A. Correct.

3 Q. There was discussion about SPACs in general; correct?

4 A. Correct.

5 Q. And there was discussion that Michael Shvartsman would try
6 to bring in a group of other investors for the founders shares
7 round; correct?

8 A. Correct.

9 Q. And it was understood that, for purposes of forming that
10 investment group, Michael Shvartsman and his team would reach
11 out to some of their contacts, tell them about the SPAC, and
12 arrange for meetings with Mr. Orlando; correct?

13 A. Correct.

14 Q. And no one said to them, by the way, don't mention Donald
15 Trump; correct?

16 MR. SHAHABIAN: Objection.

17 THE COURT: Sustained.

18 Q. Do you recall anyone saying at any point in the meeting,
19 when you reach out to investors, do not refer to Trump Media
20 Group or Donald Trump?

21 A. I can't say for certain.

22 Q. That meeting, sir, was the only time in your life that you
23 remember having any contact or communication with Bruce
24 Garelick; correct?

25 A. Correct.

051Cgar6

Wachter - Cross

1 Q. And he wasn't in the room; correct?

2 A. Correct.

3 Q. And do you remember if he said anything during the meeting?

4 A. I don't remember.

5 Q. And do you know if you could even see him through the video
6 connection?

7 A. I don't really remember.

8 Q. You know he didn't live in Florida; correct?

9 A. I knew he wasn't in Florida at the time, but I didn't know
10 where he lived.

11 Q. When you went out, Mr. Garelick wasn't in your social
12 circles; correct?

13 A. Correct.

14 Q. If there was a boys night out, he was not out with the
15 boys; correct?

16 A. Correct.

17 Q. You said on direct that you met Anton Postolnikov around
18 this time; correct?

19 MR. SHAHABIAN: Objection. Misstates the testimony.

20 THE COURT: Sustained. Also vague.

21 MR. BACH: I'm sorry.

22 Q. At some point that summer, you met Mr. Anton Postolnikov;
23 correct?

24 A. Correct.

25 Q. And you and he hit it off; right?

051Cgar6

Wachter - Cross

1 A. Correct.

2 Q. And you were eager to network with him; correct?

3 A. Correct.

4 Q. Because you understood he was investing serious money;
5 correct?

6 A. Correct.

7 Q. And he was the largest investor in the founders round;
8 correct?

9 A. As far as I was aware.

10 Q. And from time to time, you discussed DWAC with him;
11 correct?

12 A. Correct.

13 Q. And your friend, Mr. Orlando, wanted to build a
14 relationship with him, too; correct?

15 A. Correct.

16 Q. And you were aware that Mr. Orlando would from time to time
17 meet with him without you; correct?

18 MR. SHAHABIAN: Objection.

19 THE COURT: Sustained.

20 Q. From time to time, Mr. Orlando would text you about get
21 togethers --

22 MR. SHAHABIAN: Objection.

23 THE COURT: Sustained.

24 Q. Were you in regular communication with Patrick Orlando
25 during this period?

051Cgar6

Wachter - Cross

1 A. Yes.

2 Q. Did you have an understanding of whom he socialized with
3 from time to time?

4 A. Sometimes.

5 Q. Did you understand that he was socializing with
6 Mr. Postolnikov on occasions?

7 MR. SHAHABIAN: Objection.

8 THE COURT: Sustained on hearsay grounds. There is a
9 way to ask the question, but you haven't gotten it yet.

10 MR. BACH: I'm only so good, Judge.

11 THE COURT: I don't know.

12 Q. He told you from time to time he planned to meet with
13 Mr. Postolnikov; correct?

14 A. Correct.

15 MR. BACH: I have a wiser colleague.

16 Q. And you were interested in being a relationship manager
17 between Mr. Orlando on the one hand and Mr. Shvartsman on the
18 other hand; correct?

19 A. You said Mr. Shvartsman.

20 Q. I'm sorry. Withdrawn. I'm getting tired.

21 You were interested in being the relationship manager
22 between Mr. Orlando on the one hand and Mr. Postolnikov on the
23 other hand; correct?

24 A. Correct.

25 Q. You were also eager to sign up Mr. Postolnikov as one of

051Cgar6

Wachter - Cross

1 your life insurance clients; correct?

2 A. Correct.

3 Q. Your life insurance business hadn't generated that much
4 cash for you; correct?

5 A. No. I can clarify that.

6 Q. But if you lined up Mr. Postolnikov for life insurance,
7 that would be a nice set of premium payments for you; correct?

8 A. Yes.

9 Q. Because you understood that Mr. Postolnikov was worth
10 somewhere in the neighborhood of a quarter of a billion
11 dollars; correct?

12 A. I don't recall what the number was, but it was significant.
13 I believe it was north of \$100 million. I can't recall offhand
14 what the number was.

15 Q. If he got life insurance to protect that amount, the
16 premiums would be high; correct?

17 A. Yes.

18 Q. And that would be a source of some income for you; correct?

19 A. Yes.

20 Q. And you were very interested in getting a piece of that
21 life insurance business from Mr. Postolnikov; correct?

22 A. Correct.

23 Q. And Mr. Orlando helped you with that; correct?

24 A. I'm not sure how to answer that question. I don't know how
25 he helped me.

051Cgar6

Wachter - Cross

1 Q. Are you familiar with something called irrevocable life
2 insurance trust?

3 A. Yes.

4 Q. What is that?

5 A. It's a trust that's created for the purpose of purchasing
6 life insurance.

7 Q. And you made a video of the signing of Mr. Postolnikov's
8 irrevocable life insurance trust; correct?

9 A. Correct.

10 Q. And on that video, Mr. Orlando was caught on video along
11 with you and Mr. Postolnikov; correct?

12 A. Correct.

13 Q. And you understood, I asked you a few moments ago about
14 Mr. Orlando's plans to socialize with Mr. Postolnikov, but you
15 socialized with Mr. Postolnikov, as well; correct?

16 A. Correct.

17 Q. So, for instance, on September 15th, you you visited
18 Mr. Postolnikov at his home on Fisher Island; correct?

19 A. I don't have the dates in front of me, so it's tough for me
20 to answer whether that's a correct statement or not.

21 MR. BACH: Let me see if I can refresh your
22 recollection.

23 Can we show him 3514-09 at page 5, paragraph 1.

24 Let me show you a different exhibit than the one I
25 just mentioned. Let me show you what's been marked for

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Wachter - Cross

1 identification as Defendant's Exhibit 72.1.

2 I'm going to withdraw this. I think I can do this in
3 a different way.

4 Can we show Mr. Wachter 72.2, please.

5 Q. Focusing your attention at the text at the top.

6 A. Yes.

7 Q. Do you recognize that?

8 A. Yes.

9 Q. What is it?

10 A. Text exchange between Anton and myself.

11 Q. On what date?

12 A. September 16th.

13 MR. BACH: We offer it.

14 MR. SHAHABIAN: No objection.

15 THE COURT: Received.

16 (Defendant's Exhibit 72.2 received in evidence)

17 MR. BACH: Can we publish it to the jury.

18 Q. It says, hi, Anton. This is you texting Anton Postolnikov
19 on September 16th; correct?

20 A. Correct.

21 Q. And you say, it was really great hanging out with you and
22 Patrick at Fisher last night.

23 Do you see that?

24 A. Yes.

25 Q. That's Patrick Orlando; correct?

051Cgar6

Wachter - Cross

1 A. Yes.

2 Q. And Fisher is Fisher Island, which is an enclave near
3 Miami; correct?

4 A. Correct.

5 Q. And you thank him for his hospitality.

6 Do you see that?

7 A. Yes.

8 Q. And you ask him to connect about insurance; correct?

9 A. Yes.

10 Q. So you got together with him and Mr. Orlando on September
11 15th; correct?

12 A. Correct.

13 Q. Then, on September 24th, 2021, you visited him again at his
14 Fisher Island residence; correct?

15 A. I don't know the dates, but if you showed me the text that
16 said that I did, I would agree with that. It would make sense.

17 Q. Let me show you what's been marked for identification as
18 Defendant's Exhibit 72.3, and refer your attention to those two
19 pages. Take a look and let me know when you've had a chance.

20 Are you ready, Mr. Wachter?

21 A. I'm ready.

22 Q. Referring your attention to the text toward the bottom half
23 of the second page, do you recognize that?

24 A. Yes.

25 Q. What is it?

051Cgar6

Wachter - Cross

1 A. It's a text exchange between Anton and myself.

2 MR. BACH: We offer it.

3 MR. SHAHABIAN: Objection. It's being offered to
4 refresh.

5 MR. BACH: No, we're offering it not to refresh.

6 THE COURT: Hold on for a second.

7 Sustained.

8 MR. BACH: Could we have a brief sidebar?

9 THE COURT: No. The material in blue is excludable
10 under 803. You can use it for other purposes, but it looks
11 backwards and not forwards.

12 Q. Let's go to page 1. Do you see that text at the bottom of
13 the page?

14 A. Yes.

15 Q. Do you recognize it?

16 A. Yes.

17 Q. What is it?

18 A. It's a text exchange between Anton and myself.

19 MR. BACH: We offer it.

20 THE COURT: Are you offering it up to what time
21 period?

22 MR. BACH: This is on September 24th in the evening.

23 THE COURT: Which messages, Mr. Bach?

24 MR. BACH: Do you want me to approach?

25 THE COURT: You could just read out from the

O51Cgar6

Wachter - Cross

1 timestamp.

2 MR. BACH: Friday, September 24, at 7:22 p.m.

3 THE COURT: Just that exchange?

4 MR. BACH: Yes.

5 THE COURT: Any objection to that?

6 MR. SHAHABIAN: No, your Honor.

7 THE COURT: It's received.

8 (Defendant's Exhibit 72.3 received in evidence)

9 MR. BACH: Could we publish that to the jury.

10 MR. SHAHABIAN: Before we publish, if we can make sure
11 the not admitted portions aren't published so they're not on
12 the screen.

13 THE COURT: Make sure only the admitted portion is
14 shown.

15 Q. Do you see this is a text from you to Mr. Postolnikov on
16 September 24th that says, hi Anton, we will be at the ferry in
17 about 15 to 20 minutes.

18 Do you see that?

19 A. Yes.

20 Q. The ferry is the ferry to Fisher Island; correct?

21 A. Correct.

22 Q. And that's where Mr. Postolnikov lives; right?

23 A. Correct.

24 Q. And so, you were together with him at his Fisher Island
25 residence on September 24th; correct?

051Cgar6

Wachter - Cross

1 A. I don't know if I was at his residence, but I believe we
2 had dinner on the island with him and his wife that night, my
3 wife and I.

4 Q. And then on October 7th, you arranged a dinner between
5 yourself and Gerald Shvartsman and Anton Postolnikov; correct?

6 A. You're asking me questions, but I don't have the context of
7 the dates. So for me to say correct, I cant be 100 percent
8 certain.

9 Q. Do you remember at some point after September 24th, 2021,
10 arranging a dinner with Gerald Shvartsman, Michael Shvartsman,
11 yourself, and Anton Postolnikov?

12 A. No.

13 Q. And you wanted to enlist Gerald Shvartsman's help in
14 discussing insurance with Mr. Postolnikov; correct?

15 A. Correct.

16 MR. BACH: Can we please show just the witness exhibit
17 73 at October 7th, 8:58 a.m.

18 Q. Do you recognize that text?

19 A. Yes.

20 Q. What is it?

21 A. It's a text exchange between myself and Gerald Shvartsman.

22 Q. On October 7th?

23 A. Yes.

24 MR. BACH: We offer it.

25 MR. SHAHABIAN: No objection.

O51Cgar6

Wachter - Cross

1 THE COURT: It's received.

2 (Defendant's Exhibit 73 received in evidence)

3 MR. BACH: Can we publish that to the jury, please.

4 Q. On October 7th, you write to Gerald Shvartsman, hey buddy,
5 how are you?

6 Do you see that?

7 A. Yes.

8 Q. Want to organize a dinner with the wives and invite Anton
9 and his wife. We can also invite your brother?

10 Do you see that?

11 A. Yes.

12 Q. And you write, I want to talk more to Anton about the
13 insurance and I thought we can work on this together. What do
14 you think?

15 Do you see that?

16 A. Yes.

17 Q. And what did you mean when you said to Gerald, we can work
18 on this together?

19 A. I mean he's already an insurance can client of mine, so I
20 thought if he helped, that I would be happy to, you know, offer
21 him something for his help.

22 Q. Say that again. I couldn't hear.

23 A. I was willing to offer something to him for his help for
24 making the original introduction to Anton and to put in a good
25 word because Gerald is already a life insurance client of mine.

051Cgar6

Wachter - Cross

1 Q. When you say you're willing to offer something to Gerald,
2 what do you mean?

3 A. Just nothing specific, but if he wanted to work on it with
4 me, I'd look out for him in some way, whether it's finding him
5 a client or trying to do something to benefit him.

6 Q. Gerald is a furniture salesman; correct?

7 A. Yeah.

8 Q. You're talking about finding a way to get some money to
9 Gerald; correct?

10 A. It doesn't necessarily need to be money, but if he could
11 work with it on me, I would certainly appreciate it.

12 Q. And why did you think having Gerald with Anton at dinner
13 would help you move forward with your plans to provide an
14 insurance policy to Mr. Postolnikov?

15 A. I could only remember and speculate what I was thinking
16 back then, but I wanted to show respect to Gerald that I know
17 that I met him because of their relationship with Anton. So it
18 was more of that than anything. I thought him being a client,
19 it couldn't hurt, but ultimately, we never had a dinner and
20 Gerald didn't help in any way.

21 Q. So this dinner that you were planning didn't take place?

22 A. No.

23 Q. On that date?

24 A. No.

25 Q. Now, that text is dated October 7th; correct?

051Cgar6

Wachter - Cross

1 A. Correct.

2 MR. BACH: Could we put up Government Exhibit 472
3 already in evidence.

4 Q. This is an email you send on October 11th to Zoltan
5 Present; correct?

6 A. Correct.

7 Q. He's the person who your wife and his wife are best
8 friends; correct?

9 A. Correct.

10 Q. And you write in the last paragraph, Patrick will be
11 announcing some DWAC news very soon.

12 Do you see that?

13 A. Yes.

14 Q. Now, sir, what were you referring to?

15 A. I don't know. I've seen this message and I don't know.
16 Patrick would say all the time that he's going to be giving
17 updates.

18 Q. What would Patrick tell you?

19 A. He'd say all the time, I'll be sharing with the investors
20 some updates of what's happenings with DWAC. So I just wrote
21 he was going to be sharing news very soon.

22 Q. So what was the news?

23 A. I don't know.

24 Q. Isn't this nine days before the merger announcement?

25 A. Yes.

051Cgar6

Wachter - Cross

1 Q. That's on October 11th; correct?

2 A. Correct.

3 Q. Five days later on October 16th, you go to a party at Anton
4 Postolnikov's residence on Fisher Island; correct?

5 A. Again, you ask me these questions, but I don't know the
6 dates. So you'd have to show me the documentation that I was
7 with him on that date.

8 MR. BACH: Can we please show the witness Defendant's
9 Exhibit 72.4.

10 Q. Do you recognize that?

11 A. Yes.

12 Q. What is it?

13 A. It's a text exchange between Anton and myself.

14 Q. On October 17?

15 A. Yes.

16 MR. BACH: We offer it.

17 MR. SHAHABIAN: I would object to the beginning on the
18 similar backwards-forwards grounds.

19 THE COURT: Sustained on 803 grounds.

20 Q. Does this refresh your recollection?

21 A. Yes.

22 Q. Does it refresh your recollection that on October 16th, you
23 spent the evening with Mr. Postolnikov?

24 A. Yes.

25 THE COURT: By the way, I said 803, but I meant 801.

O51Cgar6

Wachter - Cross

1 I assume everybody knows what I meant. Go ahead.

2 Q. Among the guests that night was Gerald Shvartsman; correct?

3 A. No.

4 MR. BACH: I'd like to read a stipulation in the
5 record.

6 Judge, at this time, I'd like to read a portion of a
7 stipulation into the record, joint exhibit 4.

8 THE COURT: Any objection?

9 MR. SHAHABIAN: No objection.

10 THE COURT: Go ahead.

11 MR. BACH: It is hereby stipulated and agreed by and
12 between the United States of America, by Damian Williams,
13 United States Attorney for the Southern District of New York,
14 Elizabeth Hanft, Daniel Nessim, and Matthew Shahabian,
15 assistant United States attorneys, of counsel, and defendant,
16 Bruce Garelick, by and through the consent of his attorneys
17 Jonathan Bach, Alexandra Shapiro, Julian Brod, and Jason
18 Driscoll, that in the period relevant to the charges in this
19 case -- and I'm just going to read the relevant portion.

20 6, the telephone number 415-627-7638 was a telephone
21 number used by Anton Postolnikov.

22 Q. This was not a small event; correct?

23 A. I don't recall which event this was on that date.

24 Q. There were a number of guests there; correct?

25 A. Again, you're asking me correct or not correct. I don't

O51Cgar6

Wachter - Cross

1 know what the event was. I know there was one event at one
2 point that I went to where both Gerald and Anton were at, but
3 it was during the day, I believe, and it was at Gerald's house
4 for one of his kids birthdays or something. That's the only
5 time I can recall where I was in the same room with Anton and
6 Gerald.

7 Q. Let me show you what's been marked Defendant's Exhibit 83,
8 tab 20. Focus your attention on the two items on October 17.

9 A. Okay. I think I know what this was now.

10 The only other time I can remember now is --

11 MR. SHAHABIAN: Objection.

12 THE COURT: Are you asking for his refreshed
13 recollection?

14 MR. BACH: Yes.

15 Q. Can you please give your refreshed recollection.

16 A. Anton had thrown his wife a birthday party at a Japanese
17 restaurant where he took over the restaurant. That's the only
18 other time that I could recall that I may have been in the same
19 place with all of them. That must have been it, for him to say
20 thanks for --

21 THE COURT: You're not supposed to read the document.
22 Just tell us what your --

23 A. It's hard for me to remember times and dates, but there was
24 a birthday party that I was at with my wife for Anton's wife.

25 Q. And that was at or around October 17th; correct? I'm

051Cgar6

Wachter - Cross

1 sorry. October 16th; correct?

2 A. Again, I just can't remember the details, but that would
3 make sense.

4 Q. And by the way, the 16th was approximately four days before
5 the merger announcement; correct?

6 A. Correct.

7 Q. And you also reached out to Mr. Postolnikov on October
8 18th; correct?

9 A. Again, all of these are -- I could say correct, but I don't
10 know. I spoke to him quite a bit at that time. I think I
11 spoke to him every day, but I don't know the dates and the
12 times. So to answer "correct," I can't say with certainty
13 without having some record in front of me.

14 Q. You spoke to him almost every day during this time period
15 in October; correct?

16 A. Yes.

17 Q. And last night, you had a conversation with the
18 prosecutors; correct?

19 A. Yes.

20 Q. And you talked about reaching out to Mr. Postolnikov on
21 October 18th; correct?

22 A. Very possibly.

23 Q. Do you remember what you told the prosecutors last night
24 about October 18th?

25 A. No.

051Cgar6

Wachter - Cross

1 Q. But you did talk to them about it; correct?

2 A. If someone could refresh my recollection about that
3 conversation, that would be helpful.

4 Q. During this time period in October, you were also speaking
5 frequently with Patrick Orlando; correct?

6 A. To some degree, yes.

7 Q. From time to time during this time period, Mr. Orlando
8 would tell you that he planned to speak to Mr. Postolnikov, as
9 well; correct?

10 A. Correct.

11 Q. Then, a few days after the merger announcement, there was
12 another party; correct?

13 A. Correct.

14 Q. And you went to that party; correct?

15 A. Correct.

16 Q. And Mr. Postolnikov was there; correct?

17 A. Correct.

18 Q. Gerald Shvartsman was there; correct?

19 A. Correct.

20 Q. Mr. Orlando was there; correct?

21 A. Correct.

22 Q. And everyone was talking about DWAC; correct?

23 A. Correct. It was a work event.

24 Q. By the way, Bruce Garelick is not at any of these events on
25 Fisher Island; correct?

051Cgar6

Wachter - Cross

1 A. Correct.

2 Q. He's not at any of these social events; correct?

3 A. Correct.

4 Q. He's not even in Florida; correct?

5 A. Correct.

6 Q. Now, on October 21st, the day after the merger
7 announcement --

8 THE WITNESS: My computer just fell asleep.

9 Q. October 21st, the day after the merger announcement, you
10 and Gerald Shvartsman text each other; correct?

11 A. Yes.

12 Q. To talk about what's happening; correct?

13 A. Correct.

14 MR. SHAHABIAN: Objection. Vague as to what's
15 happened.

16 THE COURT: The question was already answered and in a
17 vague way, so there's vague testimony.

18 Q. And Gerald tells you -- Gerald texts you, we love you --

19 MR. SHAHABIAN: Objection.

20 THE COURT: Sustained.

21 Q. Well, let me show you what we'll mark for just the witness,
22 Defendant's Exhibit 502, page 74. Do you recognize that?

23 A. Yes.

24 Q. What is it?

25 A. It's a text exchange between myself and Patrick Orlando,

O51Cgar6

Wachter - Cross

1 but I, in that text, take a snapshot of a text exchange between
2 myself and Gerald Shvartsman.

3 Q. So the top of the page is a screenshot of texts that you
4 exchanged with Gerald on or around October 21?

5 A. Yes.

6 MR. BACH: We offer it.

7 MR. SHAHABIAN: Under the Rule of Completeness, we'd
8 ask that the prior page be offered at the same time in
9 fairness.

10 THE COURT: Can I see the prior page. Can somebody
11 show me the prior page, please.

12 MR. SHAHABIAN: I believe it's on the left now on the
13 screen, your Honor.

14 THE COURT: Right. Good.

15 Any objection to the receipt of the prior page under
16 Rule of Completeness?

17 MR. BACH: Absolutely not.

18 THE COURT: Then the two pages are received.

19 (Defendant's Exhibit 502 received in evidence)

20 MR. BACH: Can we publish for the jury the second
21 page.

22 Q. At the top is a screenshot of texts that you exchanged with
23 Gerald Shvartsman on October 21.

24 Do you see that?

25 A. Yes.

O51Cgar6

Wachter - Cross

1 Q. And Gerald Shvartsman writes to you, we love you. I hope
2 you have lots of this.

3 Do you see that?

4 A. Yes.

5 Q. You told him you had actually invested in the project;
6 correct?

7 A. No.

8 Q. Then you write, thanks buddy. In the next text, he says,
9 let me know your shoe size, I'll send you over something nice.

10 Do you see that?

11 A. Yes.

12 Q. And you write, not necessary, buddy. I'm just glad we all
13 participated.

14 Did you say that?

15 A. Yes.

16 Q. What do you mean by, I'm just glad we all participated?

17 A. I meant I participated by helping solicit and bringing
18 people together, and he participated by investing.

19 MR. BACH: Let's go to the prior page.

20 Q. Can you tell us who these texts are between?

21 A. Patrick Orlando and myself.

22 Q. And who is the green?

23 A. Myself.

24 Q. And you write, did you announce? Give me something.

25 Do you see that?

O51Cgar6

Wachter - Cross

1 A. Yes.

2 Q. That's during the day on October 20th; correct? Withdrawn.

3 MR. SHAHABIAN: Your Honor, I think if we're going to
4 do this line, we need the prior page that actually has the
5 timestamp.

6 THE COURT: I think that's right.

7 Mr. Bach, under the Rule of Completeness, I think it's
8 appropriate for the prior page, at least with the timestamp for
9 this page to come in.

10 MR. BACH: So stipulated.

11 So let's look at the prior page. The prior page is
12 the one that begins on October 8th at 8:07 a.m. October 18th.

13 Q. These are texts between you and Mr. Orlando; correct?

14 A. Correct.

15 Q. And on October 18th, you're the one in the green text;
16 right?

17 A. Correct.

18 Q. And you're confirming that you're on for dinner with him on
19 the 18th; correct?

20 A. Correct.

21 Q. Did you have dinner with him on the night of the 18th?

22 A. I don't recall.

23 Q. And you write, hey bud, what's the latest?

24 Do you see that?

25 A. Yeah.

051Cgar6

Wachter - Cross

1 Q. And then on the next page, you said, did you announce?
2 Give me something.

3 Do you see that?

4 A. Yes.

5 Q. That's a reference to the merger; correct?

6 A. Yes. Well, it's a reference to the text message. He
7 responded when I said, hey bud, what's the latest? He sent a
8 screenshot.

9 MR. BACH: Judge, can we have a sidebar before we
10 leave this?

11 THE COURT: How much more do you have on your cross
12 examination?

13 MR. BACH: I think about 15 to 20 minutes.

14 THE COURT: Actually, it's 3:45, so I think it's a
15 good time for the midafternoon break.

16 Don't talk about the case amongst yourselves and don't
17 do any research on the case. We'll reconvene at 4 o'clock.

18 I instructed the witness he can step down and step out
19 of the courtroom. He should be back here in 10 minutes.

20 (Continued on next page)

1 (Jury not present)

2 THE COURT: Be seated.

3 I should mention that the witness said to me, as he
4 was leaving, that he has a 6:30 flight out of LaGuardia. He
5 understands that his obligation is to be here through his
6 testimony, but he just wanted us to be aware of that. I'm
7 putting it on the record because it's a conversation the
8 witness had with me and you should all be aware of it.

9 MS. SHAPIRO: Your Honor, there was an objection
10 sustained to one of the pages of texts that Mr. Bach tried to
11 introduce and I -- one of my colleagues will correct me if I'm
12 wrong, but I believe it's DX 72.3. Perhaps we can pull that up
13 on the screen. On the right side, the blue bubble under
14 Saturday, September 25th at 8:23 a.m., the part that says, I'm
15 going to send you some info on the SPAC opportunity we
16 discussed on WhatsApp. Also, early next week, I will prepare
17 some info and illustration on the PPLI insurance strategy.

18 We submit, your Honor, that at the minimum, those
19 portions are admissible under 803.3 because they're actually
20 not assertions, but rather, it's a discussion of plans. As the
21 Advisory Committee notes observe, the rule of *Mutual Life*
22 *Insurance Co. of New York v. Hillmon*, an 1892 Supreme Court
23 case allowing evidence of intention doing of the act intended
24 is of course left undisturbed.

25 THE COURT: I think *Hillmon* was the case I started to

O51Cgar6

Wachter - Cross

1 mention and I think you cut me off. I understand the point.

2 MS. SHAPIRO: We had a sidebar about this.

3 THE COURT: I know, at an earlier point. So I
4 understand the *Hillmon* exception.

5 What's the government's argument with respect to those
6 portions of the message? I frankly was focused on the first
7 part that says, it was great spending the evening last night
8 with you and Olga, which is hearsay under 802, but the other
9 material, it seems to me Ms. Shapiro is right.

10 MR. SHAHABIAN: Taking this one sentence at a time,
11 your Honor. The "it was great spending," that's hearsay.
12 "Thanks for an amazing dinner," that's also hearsay. The next
13 sentence is both forwards- and backwards-looking at the same
14 time. "I'm going to send you some info on the SPAC opportunity
15 we discussed on WhatsApp" both references forward intentions
16 and a past historical event, specifically "the SPAC opportunity
17 we discussed on WhatsApp."

18 So the government would object to redacting the
19 backward-looking portion of this text message. No objection to
20 the "early next week, I'll prepare some info and illustrations
21 on the PPLI insurance."

22 THE COURT: I think what you said was transcribed as
23 the government would object to the redacting the
24 backwards-looking portion, but I think what you said was
25 actually that you don't object as long as the backward portions

1 are redacted; is that right?

2 MR. SHAHABIAN: Said or meant to say.

3 THE COURT: Any problem with that, Ms. Shapiro?

4 MS. SHAPIRO: Yes, your Honor. I think we need the
5 words after that so that there's context here.

6 THE COURT: The "we discussed on WhatsApp"?

7 Just so we're all on the same page, what I've heard
8 from the government is that they don't object to the receipt of
9 the portions of the text message that says, "I'm going to send
10 you some info on the SPAC opportunity," then you would redact
11 the rest of that sentence. Then, the following sentence would
12 come in, "also, early next week, I will prepare some info and
13 illustrations on the PPLI insurance strategy. Best, Marc."

14 MS. SHAPIRO: We'll take that, your Honor.

15 I also just want to say I apologize if I interrupted
16 the Court earlier. I certainly didn't mean to cause any
17 offense.

18 THE COURT: And you didn't cause any offense, but I
19 took the opportunity because my words were not necessarily
20 transcribed because the conversation got cut off to indicate
21 that earlier, when there was a colloquy at sidebar about a
22 communication where somebody was expressing a present intent to
23 do something in the future, that I was referring to the *Hillmon*
24 exception, which also refers back to the *Shepherd* case.

25 Is that the issue you wanted to discuss at sidebar?

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Wachter - Cross

1 MR. BACH: Whatever she said.

2 MS. SHAPIRO: I'll take that.

3 THE COURT: Sounds like a good rule.

4 We'll start again at 4 o'clock. I think the witness
5 should be on the stand at 4 o'clock. I assume that the
6 redirect is going to take us through the rest of the day; is
7 that fair?

8 MS. HANFT: There is a witness, your Honor, who's here
9 and has been for a while and has a very important commitment
10 tomorrow. So it is a witness that the government doesn't
11 believe is a lengthy witness. So, if possible, we would very
12 much like to get that witness on.

13 THE COURT: The idea would be to take that witness out
14 of order and then have --

15 MS. HANFT: No, he's next in the order. It would be
16 after --

17 THE COURT: We'll sit until 5 o'clock, but we're going
18 to reconvene at 4:00, and Mr. Bach said he's got how much more
19 time?

20 MR. BACH: If there's someone out of order, I'm happy
21 to finish this line, which I think is going to take about a
22 minute, take the other witness out of order and then return.

23 THE COURT: The two of you can discuss it. I'm
24 indifferent. If I don't hear anything to the contrary, we'll
25 assume that we're going finish up with Mr. Wachter today.

051Cgar6

Wachter - Cross

1 You'll discuss it amongst yourselves. See you back here a
2 couple minutes before 4:00.

3 (Recess)

4 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Be seated.

3 What did you all decide about witness order?

4 MS. HANFT: We're sticking with the order, your Honor.

5 THE COURT: Okay. Let's bring the jury in.

6 (Jury present)

7 THE COURT: Be seated.

8 All right. Mr. Bach, you may continue.

9 MR. BACH: Thank you, Judge.

10 We offer Defense Exhibit 72.3.

11 THE COURT: Okay. As redacted, is that—

12 MR. BACH: Yes, Judge.

13 THE COURT: Okay. That's received.

14 (Defendant's Exhibit 72.3 received in evidence)

15 MR. BACH: Thank you.

16 Can we bring back on the screen Government

17 Exhibit 502, pages 199 and 200.

18 BY MR. BACH:

19 Q. Okay. Mr. Wachter, these are text messages between you and
20 Mr. Orlando starting on or about October 18th and going through
21 October 21st, correct?

22 A. Correct.

23 Q. We were talking about them before, correct?

24 A. Correct.

25 Q. Let me focus your attention on the text that you write on

0511GAR7

Wachter - Cross

1 October 20th at 6:38 p.m. Do you see that in green, on the
2 middle of the first page?

3 A. Yes.

4 Q. You say, "Hey, Bud, what's the latest?" Do you see that?

5 A. Yes.

6 Q. And that's because you expected to hear from him about some
7 news, correct?

8 A. No. I believe it's because I haven't spoken to him in two
9 days, which is not really normal.

10 Q. You are asking him, what is the latest news you can give
11 me, correct?

12 A. I don't read it that way.

13 Q. Okay. This text that you send to him at 6:38 is before
14 there's been any public announcement of the merger, correct?

15 A. I believe so.

16 Q. Okay. And you anticipated, before there was any public
17 announcement, that he might have the latest news to give to
18 you, correct?

19 A. I'm sorry, but I don't—I don't view it that way.

20 Q. Okay. That text is at 6:38 p.m., correct?

21 A. Correct.

22 MR. BACH: And, Judge, I'd like to read into the
23 record a stipulation, Joint Exhibit 2.

24 THE COURT: Okay. You may do so.

25 MR. BACH: It is hereby stipulated and agreed by and

0511GAR7

Wachter - Cross

1 between United States of America—oh. It's already in
2 evidence.

3 Can we publish paragraph 3 of Joint Exhibit 2.

4 Government Exhibit 131 is a true and correct tweet
5 issued by Liz Harrington, a spokeswoman for former president
6 Donald J. Trump at approximately 8:16 p.m. Eastern time on
7 October 20, 2021, containing a press release announcing the
8 merger agreement between Trump Media & Technology Group and
9 Digital World Acquisition Corporation.

10 BY MR. BACH:

11 Q. The text you sent asking Patrick Orlando "what's the
12 latest" was before 8:16 p.m., correct?

13 A. Correct.

14 Q. And after the public announcement, you and Mr. Orlando
15 continued to attempt to interest Mr. Postolnikov in additional
16 SPACs, correct?

17 A. Correct.

18 Q. And you and Mr. Orlando planned to talk to Mr. Postolnikov
19 together, correct?

20 A. Depends on which—I mean, I'm sure there were times that we
21 did. There were times I was talking to him alone and times
22 with Patrick. I—you'd have to be more specific.

23 MR. BACH: Can we—what exhibit number is this?

24 Can we show the witness 75.6, at the bottom of page,
25 MW01922. Just the witness.

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Wachter - Cross

1 Q. Focusing your attention on the page, you see the page that
2 has in the lower right corner MW01922?

3 A. Yes.

4 Q. Focusing your attention on the last five or six lines of
5 that page.

6 A. Okay.

7 Q. Do you recognize this?

8 A. Yes.

9 Q. What is it?

10 A. A text exchange between Patrick Orlando and me.

11 MR. BACH: Okay. We offer it.

12 MR. SHAHABIAN: Objection, relevance.

13 THE COURT: Sustained.

14 MR. BACH: Can we have a sidebar.

15 THE COURT: Maybe you can do a little bit more with
16 questions to establish the relevance.

17 MR. BACH: Sure.

18 BY MR. BACH:

19 Q. You exchanged texts with Mr. Orlando in November, after the
20 close of the merger agreement, correct?

21 A. It wasn't the close of a merger agreement. It was just an
22 announcement that they would be merging.

23 Q. You are absolutely right. So after the announcement on
24 October 20th, in early November, you and Mr. Orlando are
25 already attempting to interest Mr. Postolnikov in further

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Wachter - Cross

1 investments, correct?

2 A. Correct.

3 Q. And you and he considered him to be on the preferred and
4 early list always, correct?

5 A. Those are Patrick's words, but I would agree with that,
6 yes.

7 Q. And you and he planned to talk to Mr. Postolnikov about the
8 bigger picture, correct?

9 A. Correct.

10 Q. Now you deleted a number of texts from your phone, correct?

11 A. Correct.

12 Q. Before you met with the prosecutors in this case, correct?

13 A. Correct.

14 Q. And a number of those texts were with Mr. Postolnikov,
15 correct?

16 A. Correct.

17 Q. And you don't have a perfect recollection of the texts that
18 you deleted, correct?

19 A. No.

20 Q. But on your phone you had chats between you and Mr. Orlando
21 and Mr. Postolnikov, correct?

22 A. Yes.

23 Q. And also among these texts were items that Mr. Postolnikov
24 wanted to hide from the insurance cover—the insurance provider
25 in connection with his attempt to get life insurance, correct?

O511GAR7

Wachter - Cross

1 MR. SHAHABIAN: Objection.

2 THE COURT: Sustained.

3 Q. Okay. One of the reasons that you deleted these texts was
4 you wanted to hide certain communications that you had with
5 Mr. Postolnikov concerning his insurance coverage, correct?

6 A. I wouldn't use the word hide, but I just didn't think it
7 was appropriate to keep that information on my phone.

8 Q. Well, for instance, you were trying to help him place a
9 life insurance policy, correct?

10 A. Correct.

11 Q. And Mr. Postolnikov confided in you about a number of
12 things about his personal life, correct?

13 MR. SHAHABIAN: Objection.

14 THE COURT: Overruled, but I'm only going to permit
15 limited examination on this.

16 Q. Okay. For instance—and I'll ask you one question—he was
17 taking antiaging medication.

18 MR. SHAHABIAN: Objection.

19 THE COURT: Sustained.

20 MR. BACH: Okay. Can we just have—I want to make a
21 proffer at the sidebar.

22 THE COURT: Okay.

23 (Continued on next page)

1 (At the sidebar)

2 MR. BROD: So Judge, there's at least two—

3 THE COURT: Antiaging medication?

4 MR. BROD: There's at least two bases for this.

5 First, clearly there is an element of insurance fraud
6 here, which goes to the witness's credibility and his motive to
7 cooperate with the government.

8 Second, the government elicited on direct, because
9 they knew this was coming in on cross, that he deleted text
10 messages—these messages with Anton, possibly also a group text
11 with Orlando. The messages with—he tells the
12 government—backtrack.

13 What they elicited was very, very minimal. There were
14 things that he didn't think were appropriate. The truth is
15 that they know from interviewing him multiple times that it
16 goes to specific medical issues that could have interfered with
17 the \$75 million life insurance policy, with annual premiums of
18 several hundred thousand dollars. And he didn't want those on
19 his phone because if it was found out by the insurance company,
20 the policy might not have gone through.

21 MR. SHAHABIAN: The objection is on 403 grounds. I
22 don't have an objection to them exploring motive to conceal,
23 but going into, like, antiaging pills and that just seems like
24 undue—

25 THE COURT: That's absolutely the reason I sustained

1 the objection.

2 Mr. Brod, everything that you mentioned seems to me to
3 be fair game. The particular medical conditions, you know, is
4 not sort of the first line of examination.

5 MR. BROD: But we can inquire that there were medical
6 issues they were texting about.

7 MR. BACH: Speaking in general terms.

8 THE COURT: Speak in general terms. Mr. Brod laid out
9 a perfectly good line of examination, and I'm sure, Mr. Bach,
10 you can pick up on that.

11 (Continued on next page)

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O511GAR7

Wachter - Cross

1 (In open court)

2 BY MR. BACH:

3 Q. Mr. Wachter, you were trying to help Anton Postolnikov
4 place a life insurance policy, correct?

5 A. Correct.

6 Q. And you know from your experience in life insurance that
7 one of the issues for life insurance providers is the health
8 and medical care of the person applying for life insurance,
9 correct?

10 A. Correct.

11 Q. And there were issues that you became aware of concerning
12 Mr. Postolnikov's health and medical regime, correct?

13 A. No. I wouldn't call it an issue. I would just say there
14 were questions that he was asking me, personal questions, and I
15 didn't want to keep a record of it, but—

16 Q. Well, you understood that those issues could impact him
17 getting life insurance, correct?

18 A. I didn't believe that they would, but it's possible.

19 Q. Whatever questions he raised, you thought that it was
20 important to delete them, correct?

21 A. Correct.

22 Q. And part of the reason is that you and Mr. Postolnikov were
23 seeking a \$75 million life insurance policy, correct?

24 A. No. I believe it was a \$50 million policy.

25 Q. Okay. And in seeking that policy, you wanted to be sure

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Wachter - Cross

1 that certain information that could jeopardize his getting that
2 policy was removed from your phone, correct?

3 A. Correct.

4 Q. Now the prosecutors in this case interviewed you a year
5 ago, on May 30, 2023, approximately a year ago, correct?

6 A. Correct.

7 Q. And you told them that there came a point when you and
8 Mr. Postolnikov stopped working on the life insurance deal,
9 correct?

10 A. Correct.

11 Q. And you told them that you stopped working on it after the
12 FBI had approached you, correct?

13 A. Yes.

14 Q. And that was because you were concerned that the life
15 insurance would appear to be a payback related to DWAC,
16 correct?

17 A. I believe that's what I had stated then, but he was going
18 through a divorce, which is I believe the primary reason he
19 canceled the policy, or decided not to pursue it at that time.

20 Q. So when you told the FBI and federal prosecutors that the
21 reason you and Mr. Postolnikov stopped pursuing the policy was
22 because you were concerned it would look like a payback related
23 to DWAC, were you telling them the truth or not?

24 A. I believed that it could have looked like that with what
25 was going on, but I don't believe that that was the primary

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Wachter - Cross

1 reason that Mr. Postolnikov stopped pursuing the policy. I
2 believe it was because he was going through a divorce.

3 Q. Okay. But you did—you told the prosecutors that the
4 reason was because you were concerned about how it would look,
5 correct?

6 A. If I told them that, then that was the case.

7 Q. And the reason you were concerned was because you were
8 going to get a lot of money if this insurance policy was
9 placed, correct?

10 A. Correct.

11 Q. A \$50 million insurance policy, correct?

12 A. Correct.

13 Q. And your funds were tight during this period of time,
14 correct?

15 A. Correct.

16 Q. And Mr. Postolnikov had made more than any other human
17 being on earth in the DWAC deal, correct?

18 MR. SHAHABIAN: Objection.

19 THE COURT: Sustained.

20 Q. You understood, sir, that Mr. Postolnikov had not only
21 invested in the founders round for \$4.5 million but had gone on
22 to invest a total of \$10 million in DWAC, correct?

23 A. Correct.

24 Q. Okay. And you were concerned that this life insurance deal
25 would look like he was paying you back, correct?

O511GAR7

Wachter - Redirect

1 A. Correct.

2 MR. BACH: Thank you. No further questions.

3 THE COURT: Redirect examination.

4 MR. SHAHABIAN: Yes, your Honor.

5 REDIRECT EXAMINATION

6 BY MR. SHAHABIAN:

7 Q. Mr. Wachter, do you remember being asked questions on
8 cross-examination about receiving founders shares from Patrick
9 Orlando in compensation for your work assisting him with DWAC?

10 A. Yes.

11 Q. Have you received those shares yet?

12 A. No.

13 Q. Do you still anticipate receiving shares as compensation
14 for your work with DWAC?

15 A. Yes.

16 Q. To your understanding have those founders shares been
17 issued yet?

18 A. They have not.

19 Q. Are they still locked up, to your understanding?

20 A. Yes.

21 Q. Do you anticipate receiving those founders shares after the
22 lockup period expires?

23 A. Yes.

24 Q. I'd now like to talk to you a little bit about the Zoltan
25 Present transaction you discussed on cross-examination. Do you

1 remember being asked questions about that?

2 A. Yes.

3 Q. And the purpose for the transaction from your perspective
4 and DWAC's perspective?

5 A. Yes.

6 Q. Do you recall testifying about something about
7 oversubscription in DWAC?

8 A. Yes.

9 Q. What did you mean by that?

10 A. It meant that Patrick had raised more money for it than he
11 could allocate to everyone, or was willing to allocate to
12 everyone, and he was planning on returning a portion of
13 everyone's money back or using that overage to give people a
14 discount on his future SPACs.

15 Q. Was that something that you and Patrick Orlando discussed
16 before you suggested this transfer arrangement with Zoltan
17 Present?

18 MR. BACH: Objection. Leading.

19 THE COURT: Overruled.

20 A. I believe so.

21 MR. SHAHABIAN: If we could bring up for the witness
22 and counsel Government Exhibit 502 at pages 63 to 64.

23 If we could go to the next pages, 64 to 65,
24 Mr. Bianco. It's not in evidence yet.

25 If we could show them side by side, Mr. Bianco.

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Wachter - Redirect

1 Actually, sorry for the technical instructions. Maybe the
2 better way to do this is show it in one line and split the
3 difference between 64 and 65.

4 Apologies, your Honor.

5 If we could just blow up the text message on
6 September 21st, starting at 8:40 p.m. and continuing down to
7 the before 8:10 time stamp on the 27th. Perfect.

8 BY MR. SHAHABIAN:

9 Q. Do you see this exchange, Mr. Wachter?

10 A. Yes.

11 Q. Who is this between?

12 A. Patrick Orlando and myself.

13 MR. SHAHABIAN: Government offers this portion of
14 Government Exhibit 502 at pages 64 to 65.

15 MR. BACH: No objection.

16 THE COURT: Received.

17 (Government's Exhibit 502, pages 64-65 received in
18 evidence)

19 MR. SHAHABIAN: Publish.

20 BY MR. SHAHABIAN:

21 Q. Could you read the first text message, Mr. Wachter.

22 A. "If Zoltan wants his cash back—" Oh, no, this is from
23 Patrick.

24 Q. And what does Patrick say?

25 A. "If Zoltan wants his cash back, let me know. I need to

1 return some overfunding."

2 Q. And what did you respond?

3 A. "I don't think that's the case at all."

4 Q. Why did you say that?

5 A. Because I don't believe Zoltan wanted to sell his shares.

6 Q. And what did Mr. Orlando respond to you?

7 A. "Ok, man, someone has to want cash back. We got too much."

8 Q. Did this text exchange lead to your agreement with

9 Mr. Present to transfer some of your shares to him?

10 A. Yes.

11 Q. How?

12 A. Well, I realized Patrick wanted to get some money back, and
13 then it didn't really hit me till I learned he needed cash for
14 the closing of his house to get his mortgage, and at that
15 moment I had this idea that I would be willing to sell my
16 interest to him and get him the same position that he
17 had—he—beforehand, free up money for Patrick, which he
18 needed—I mean, return money for Patrick, free up shares, and I
19 would ultimately get some cash in my pocket.

20 MR. SHAHABIAN: If we could take this down and move to
21 Government Exhibit 472.

22 If we could blow up the body of the email, Mr. Bianco.

23 Q. Mr. Wachter, do you remember being asked questions about
24 this on cross-examination?

25 A. Yes.

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Wachter - Redirect

1 Q. And do you remember specifically being asked questions
2 about announcing some DWAC news very soon?

3 A. Yes.

4 Q. You said that you didn't remember what this was but that
5 you didn't know what Mr. Orlando's news was; is that accurate?

6 A. Correct.

7 Q. Do you believe that you were referring to news about the
8 status of the merger between Trump Media and DWAC?

9 A. No.

10 Q. Why not?

11 A. Because I didn't know that there was a merger—or an
12 announcement that was going to be taking place between them.

13 Q. What was the rest of the topic of conversation in this
14 email?

15 A. About accommodating the return of his investment and that I
16 would do a side deal with him to get him those shares back.

17 Q. Would you have transferred a hundred thousand dollars of
18 your DWAC membership interest at this point if you knew that
19 the Trump Media-DWAC negotiations were progressing towards a
20 merger?

21 A. No.

22 Q. Why not?

23 A. Because as I stated earlier, what—whether it was fantasy
24 or not, I believed I had those shares to transfer and I
25 believed that they were of, you know, a certain value, and—and

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Wachter - Recross

1 after the announcement, the value of that went up, I think I
2 said 20, 30 plus times, so a hundred-thousand-dollar investment
3 on paper I think was worth close to \$3 million the next day, so
4 of course I wouldn't have made that transfer if I knew that.

5 Q. Were you upset that you had agreed to this transfer after
6 learning about the DWAC-Trump Media news?

7 A. Yes.

8 Q. Why were you upset?

9 A. Because I had—I am very close with Patrick, I had dinner
10 with him just a few nights before that, and I would have
11 thought, as a good friend, he'd just tell me to slow down and
12 not, you know—we could—you can do this in a couple of weeks.

13 Q. Did he say anything like that to you?

14 A. No, not a word.

15 MR. SHAHABIAN: No further questions.

16 THE COURT: Anything further, Mr. Bach?

17 MR. BACH: Yes. Can we pull up 502-065.

18 The exhibit that was shown by the government.

19 RECROSS EXAMINATION

20 BY MR. BACH:

21 Q. Okay. So Mr. Orlando was oversubscribed, correct?

22 A. Correct.

23 Q. Meaning he had too many people who had signed subscription
24 agreements and not enough founders shares to give them,
25 correct?

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Wachter - Recross

1 A. Correct.

2 Q. And Mr. — and Zoltan had founders shares that he could
3 give back, correct?

4 A. Correct.

5 Q. And he needed—in September, when you wrote, "I don't think
6 that's the case at all," that's before he needed money for a
7 mortgage, correct?

8 A. Correct.

9 Q. And then at some point he needs money to show a bank for
10 his mortgage and so he wants liquidity, correct?

11 A. Correct.

12 Q. And because Mr. Orlando was oversubscribed, he could return
13 his shares and get some money back, correct?

14 A. Correct.

15 Q. And then he could show the bank he had money and get a
16 mortgage, correct?

17 A. Correct.

18 Q. Okay. He could have done that with Mr. Orlando without
19 you, correct?

20 A. Correct, but then he would have been out of the shares.

21 Q. All right. So in other words, if he wanted money for the
22 mortgage, he could have returned his shares to Mr. Orlando,
23 Mr. Orlando would have said, thank you, I'm oversubscribed,
24 here's your hundred thousand dollars back, correct?

25 A. Correct.

O511GAR7

1 Q. Okay. He didn't need to involve you, correct?

2 MR. SHAHABIAN: Objection.

3 THE COURT: Sustained.

4 Q. Okay. Sir, you've never given him a single share in your
5 life, correct?

6 MR. SHAHABIAN: Objection.

7 THE COURT: Sustained.

8 Q. You have never transferred any shares to Zoltan Present,
9 correct?

10 MR. SHAHABIAN: Objection.

11 THE COURT: Sustained.

12 Q. Have you ever transferred any shares to Zoltan Present?

13 A. No, not yet.

14 THE COURT: Anything further from the government?

15 MR. SHAHABIAN: No, your Honor.

16 THE COURT: All right. Sir, you're excused as a
17 witness.

18 THE WITNESS: Thank you.

19 (Witness excused)

20 THE COURT: Government can call its next witness.

21 MS. HANFT: Your Honor, may we approach.

22 (Continued on next page)

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1 (At the sidebar)

2 THE COURT: The last witness is very interested in
3 catching his flight.

4 MS. HANFT: So I think despite what I said, what would
5 be least disruptive to this next witness is actually for him to
6 fly home and then come back on Friday, so there's no sense in
7 starting him now if we're not going to finish him because he
8 has a very important personal commitment tomorrow. So I think,
9 your Honor, we would request that we break for the day.

10 THE COURT: Is there another witness you can put on
11 today?

12 MR. BACH: Can't we finish him today? He's going to
13 be 15 minutes on direct and 10 minutes on cross.

14 MS. HANFT: The jury has to leave, and I'm not sure
15 we'll finish him, and I really don't want to—then he's going
16 to have to stay tomorrow. If we could stay a little later than
17 5, I think that's fine, but if you're not going to ask the jury
18 to do that, then—

19 MR. BACH: We can ask the jury.

20 THE COURT: If they could stay till 5:15, do you think
21 that would do it?

22 MS. HANFT: I think that's possible.

23 MS. SHAPIRO: Your Honor, can I—

24 THE COURT: Hold on for a second. Why don't I have
25 Mr. Fishman—

O511GAR7

1 MS. SHAPIRO: I have something I want to put on the
2 record.

3 THE COURT: Let me just have Mr. Fishman check with
4 the jurors if they can stay a little later.

5 MS. SHAPIRO: I just want to put on the record, I know
6 your Honor ruled on the *in limine* motions regarding
7 co-conspirator hearsay related to this witness, Mr. Lopez. And
8 we just want to put on record that we have a continuing
9 objection both to the hearsay and actually to his testimony at
10 all because we don't think the government has laid an adequate
11 foundation to establish that he or Mr. Gerald Shvartsman are a
12 co-conspirator with Mr. Garelick. So we think it would be
13 prejudicial to introduce his testimony and any hearsay of
14 Gerald Shvartsman during his examination because of the reasons
15 I just stated.

16 THE COURT: As you indicated, I've ruled on this.
17 Let's call the witness.

18 MS. HANFT: But your Honor, he needs to invoke.

19 MR. SHAHABIAN: You need to excuse the jury.

20 MS. HANFT: He needs to invoke.

21 THE COURT: Oh, okay.

22 (In open court)

23 THE COURT: Members of the jury, with apologies—and
24 there's going to be a thanks. Apologies is there is one legal
25 matter I need to discuss with the lawyers very quickly so I'm

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Lopez Torres

1 going to ask you to go back to the jury room, but thanks for
2 your agreement to stay a little later.

3 THE DEPUTY CLERK: All rise.

4 (Jury not present)

5 THE COURT: Okay. Let's bring the witness in.

6 MS. HANFT: The government calls Adrian Lopez Torres.

7 THE COURT: Sir, please step forward into the witness
8 box, remain standing, and my deputy will administer the oath.

9 THE DEPUTY CLERK: Please raise your right hand.

10 (Witness sworn)

11 THE DEPUTY CLERK: Please state your full name for the
12 record and please spell out your first and last name.

13 THE WITNESS: Adrian Lopez Torres. Adrian,
14 A-D-R-I-A-N, Lopez, L-O-P-E-Z, Torres, T-O-R-R-E-S.

15 THE COURT: You may be seated.

16 Counsel, you may inquire.

17 ADRIAN LOPEZ TORRES,

18 called as a witness by the Government,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. HANFT:

22 Q. Mr. Lopez Torres, are you testifying here—you can be
23 seated, sir.

24 Are you testifying here today pursuant to an immunity
25 order?

O511GAR7

Lopez Torres - Direct

1 A. Yes.

2 Q. Is that because you believe that the answers you would give
3 today might tend to incriminate you?

4 A. Yes.

5 Q. If you were asked any questions without the immunity order,
6 would you invoke your Fifth Amendment right?

7 A. Yes.

8 MS. HANFT: Your Honor, I ask that the order become
9 effective and be marked as a Court Exhibit .

10 THE COURT: Any objection? Mr. Bach, any objection?

11 MR. BACH: No objection.

12 THE COURT: All right. I declare that the order is
13 effective. The witness will be testifying pursuant to the
14 immunity order, which will be marked as Court Exhibit No. 2.

15 MS. HANFT: Thank you, your Honor.

16 THE COURT: Let's bring in the jury.

17 (Continued on next page)

O511GAR7

Lopez Torres - Direct

1 (Jury present)

2 THE COURT: Be seated.

3 Witness should remain standing.

4 Ms. Hanft, why don't you announce the witness. My
5 deputy will administer the oath.

6 MS. HANFT: The government calls Adrian Lopez Torres.

7 THE DEPUTY CLERK: Please stand and raise your right
8 hand.

9 (Witness sworn)

10 THE DEPUTY CLERK: Thank you. Please state your full
11 name for the record.

12 THE WITNESS: Adrian Lopez Torres.

13 THE COURT: You may be seated.

14 Counsel, you may inquire.

15 ADRIAN LOPEZ TORRES,

16 called as a witness by the Government,

17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. HANFT:

20 Q. Good evening, Mr. Lopez Torres.

21 A. Good evening.

22 Q. Where do you live?

23 A. West Palm Beach.

24 Q. And what do you for a living?

25 A. IT.

0511GAR7

Lopez Torres - Direct

1 Q. What does IT stand for?

2 A. Information technology.

3 Q. Do you currently have a job?

4 A. I was. I stopped working a week ago.

5 Q. And where were you working until a week ago?

6 A. Source Furniture.

7 Q. How long did you work at Source Furniture?

8 A. Around 12 years.

9 Q. What kind of store is Source Furniture?

10 A. It's a manufacturer of furniture.

11 Q. And who is the owner of Source Furniture?

12 A. Gerald Shvartsman.

13 Q. And what did you do for Source Furniture?

14 A. IT.

15 Q. Now you mentioned your boss was Gerald Shvartsman. How
16 would you describe your relationship with Gerald Shvartsman?

17 A. Good relationship.

18 Q. Did you know any of his family members?

19 A. Throughout the years, I met his mother, his father, and his
20 brother.

21 Q. What was his brother's name?

22 A. Michael Shvartsman.

23 Q. Did there ever come a time when you bought something called
24 warrants in the stock market?

25 A. Yes.

0511GAR7

Lopez Torres - Direct

1 Q. What kind of warrants?

2 A. DWAC W.

3 Q. Why did you buy those warrants?

4 A. I received a call from Gerald and that he said that he
5 purchased warrants, and I purchased a warrant.

6 Q. Did you sell them?

7 A. Yes, I did.

8 Q. About how much money did you make?

9 A. Approximately 350. That's an estimate.

10 Q. I'd like to back up for a few minutes and talk about how
11 you got to that point.

12 During your time working at Source Furniture did you
13 speak to Gerald Shvartsman about investments?

14 A. If I remember correctly, once he approached me, get my
15 opinion about Tesla, and I shared my opinion. I'd been
16 following the company for many years, and—yeah. Not sure if
17 he ever purchased Tesla or—or traded the stocks.

18 Q. Do you regularly invest in the stock market?

19 A. I myself?

20 THE COURT: Do you regularly invest in the stock
21 market?

22 THE WITNESS: Not—not regularly. I usually am
23 long-term investor.

24 Q. Did there come a time when Gerald Shvartsman approached you
25 about a potential investment specifically?

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Lopez Torres - Direct

1 A. Yes.

2 Q. What did he say?

3 A. So one—one time I was at—at the factory floor, and
4 basically he said that if I was interested in hearing more
5 about a—an investment opportunity.

6 Q. Did he say anything else about the investment opportunity?

7 A. If I remember correctly, he mentioned the word Trump Media.

8 Q. Do you recall approximately when that was?

9 A. June, July 2021.

10 Q. And I'm going to show you what's been marked for
11 identification as Government Exhibit 700.

12 MS. HANFT: If we could show it just to the witness
13 and the parties.

14 And pursuant to Joint Exhibit 3, which has been
15 offered, I'll now read paragraphs 1 and 2.

16 Government Exhibits 700-703 and all parts and
17 subdivisions thereof are true and correct copies of text
18 message conversations obtained from a cellular device belonging
19 to and used by Adrian Lopez Torres.

20 Government Exhibits 702A and 704—I'm sorry. I
21 just—Mr. Bianco, could we take down Government Exhibit 700 and
22 instead put up Joint Exhibit 3.

23 Government Exhibits 702A and 704 are true and correct
24 copies of photographs recovered from the ALT phone. Government
25 Exhibit 702A corresponds to the photograph exchanged during the

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Lopez Torres - Direct

1 course of the text conversation obtained in Government
2 Exhibit 702; Government Exhibit 704 is the photograph exchanged
3 in the text message conversation reflected in Government
4 Exhibit 703 at row 8 of that exchange.

5 And the government offers Government Exhibits 700
6 through 703, and 702A and 704.

7 THE COURT: Any objection?

8 Mr. Bach, any objection?

9 MS. SHAPIRO: Could we see them on the screen?

10 MS. HANFT: We'll start with Government Exhibit 700.
11 Could you bring it back up for the parties, Mr. Bianco, and the
12 witness.

13 MR. BACH: No objection.

14 THE COURT: All right. Received.

15 (Government's Exhibits 700-703, 702A, 704 received in
16 evidence)

17 MS. HANFT: Could you publish Government Exhibit 700.
18 BY MS. HANFT:

19 Q. And Mr. Lopez Torres, do you see the conversation on your
20 screen?

21 A. Yes, I do.

22 Q. Who is it a conversation between?

23 A. Between Gerald Shvartsman and myself.

24 Q. And so starting at row 2, can you read the message that you
25 sent to Gerald Shvartsman on June 22, 2021.

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Lopez Torres - Direct

1 A. "Send me the information later. I would like to review
2 it."

3 Q. And what was his response at row 3?

4 A. "K." Okay.

5 Q. And let's go down to row 4, please.

6 A. "Need NDA."

7 Q. Mr. Lopez Torres, what is an NDA?

8 A. A nondisclosure agreement.

9 Q. Do you recall signing a nondisclosure agreement around this
10 time?

11 A. Based on my understanding, no, I did not.

12 MS. HANFT: We can take this down.

13 Q. Did you then participate in a phone call regarding the
14 investment that Gerald Shvartsman told you about?

15 A. Eventually, yes.

16 MS. HANFT: Okay. Government Exhibit 438, Mr. Bianco,
17 can we pull that up for the parties and the witness.

18 MR. BACH: No objection.

19 MS. HANFT: Government offers Government Exhibit 438.

20 THE COURT: Received.

21 (Government's Exhibit 438 received in evidence)

22 MS. HANFT: The parties have stipulated is a true and
23 correct copy of an email communication pursuant to Joint
24 Exhibit 2.

25 BY MS. HANFT:

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Lopez Torres - Direct

1 Q. Now starting at the top of the document, Mr. Lopez Torres,
2 could you read the title.

3 A. "Gerald Bruce Contact Info."

4 Q. And what's the date and time of this email?

5 A. Friday, July 2, 2021.

6 Q. And who's the email from?

7 A. Gerald Shvartsman.

8 Q. And who is it to?

9 A. It's going to Bruce G, Eli 88008, Adrian Lopez.

10 Q. And taking that, the most recent one first, who is Adrian
11 Lopez?

12 A. That's correct.

13 Q. Who is Adrian Lopez?

14 A. Oh, myself.

15 Q. And who is Eli 88008?

16 A. I do not know.

17 Q. Do you know who bruce@rocketonecapital is?

18 A. At the time, no.

19 Q. Did you then speak with the person you believed to be Bruce
20 at Rocket One Capital?

21 A. Yes.

22 Q. Going to the second page, there's another email from Gerald
23 Shvartsman. What was—or we could skip that.

24 MS. HANFT: All the way down to the—oop. Mr. Bianco,
25 if you could scroll up. Thank you. And stop right there.

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Lopez Torres - Direct

1 Q. At 3:49, what was your response?

2 A. "Yes, I'm in."

3 Q. Okay. And let's keep scrolling down to 3:53. What did
4 Gerald Shvartsman say to you and Larry Markovitz, copying Bruce
5 G and Eli Goldberg?

6 A. "Bruce, please send out the invite to all."

7 Q. And we'll take a look at the next email response.

8 What was Bruce G's response?

9 A. "Hey, Adrian and Eli, nice to meet you both. I'm free now
10 if you guys want to hop on a call to walk through this.
11 710015950."

12 Q. And keep scrolling down, please.

13 What was Bruce G's response?

14 A. "Will do. You'll see a calendar invite email with the
15 Google Meet connection link for 4:15 p.m."

16 Q. And Gerald Shvartsman's email below that?

17 A. "Bruce, make a Zoom invite for 5:30 today, please."

18 Q. And what was your response?

19 A. "Can't do this time but I can after office hours, 5 p.m.
20 Eastern."

21 MS. HANFT: Okay. And if we could go to the bottom of
22 this document, the final email from Bruce G. I'm sorry. The
23 final email of that page, not the document.

24 Q. And what does Bruce G say at 4:05 p.m.?

25 A. "No problem. Call is now at 5:30 p.m."

0511GAR7

Lopez Torres - Direct

1 Q. And could you read what it says below that.

2 A. "SPAC investment discussion—" I'm sorry "—Friday, July 2,
3 5:30–6 p.m., Google Meet."

4 Q. What is this text, sir?

5 A. This is a Google Meet information.

6 Q. For what?

7 A. For a SPAC investment discussion.

8 MS. HANFT: And if you could scroll all the way back
9 to the top, Mr. Bianco. Thank you.

10 Q. Gerald Shvartsman's initial email in this chain at
11 3:33 p.m., could you read again what it says in the body of
12 this email.

13 A. "Adrian and Eli, let me know if you're interested in
14 hearing the Trump SPAC opportunity."

15 Q. So how did you—how did the call that you spoke about a
16 moment ago happen?

17 A. Yeah. So I joined—I joined the call late. I was
18 multitasking. When I joined the call, I—I remember Gerald
19 mentioning, Adrian, is that you? And I said yes.

20 During the call, a discussion was made that an
21 investment opportunity, there was a—a minimum of investment
22 and—and there was a—a lockup period that you won't be able to
23 access your funds.

24 Q. So just to back up a moment, who was on the call when you
25 joined?

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Lopez Torres - Direct

1 A. It's my understanding was Gerald and Bruce.

2 Q. And did Gerald ever tell you who Bruce G was or Bruce
3 Garelick was?

4 A. I don't think we ever went into details who Bruce was, no.

5 Q. Did he tell you anything about him?

6 A. I think either verbally or I read it somewhere in an email
7 or something; he was a stockbroker.

8 Q. And to the best of your recollection what was being offered
9 on the call?

10 A. I have bad memory specific about the call, but as I said,
11 it was, you invest a minimum and you will be locked for a
12 period of time, so—

13 Q. And you—we referred to the word SPAC before. You just
14 read Trump SPAC opportunity. Did you know what a SPAC was?

15 A. Yes, at the time I was very familiar with the SPAC. It was
16 basically two—two companies merge together to go public.

17 Q. And you also mentioned something about being locked up.
18 What does that mean?

19 A. So it's my understanding that if you invested at least the
20 minimum, you wouldn't be able to access the funds for a period
21 of time.

22 MS. HANFT: Mr. Bianco, can we scroll down to the
23 fourth page of this exhibit.

24 Q. Did you respond to Mr. Garelick after this call?

25 A. Yes, I did. I did send an email thanking Bruce in this

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Lopez Torres - Direct

1 case for putting the call together, yes.

2 Q. Sir, could you just repeat what you just said.

3 A. Yes, I did reply back here, "Bruce, thank you for putting
4 this call together. I really appreciate it."

5 Q. And did you end up making the investment described on the
6 call?

7 A. No, I did not.

8 Q. Why not?

9 A. At the time I really didn't understand what was being
10 proposed, and I also didn't like the idea of having my—my
11 funds locked up, so, yeah, I didn't—didn't make sense to me.

12 Q. Did there come a time when this opportunity or something
13 related to it came up again in conversation with Gerald
14 Shvartsman?

15 A. Yeah. So some time later, I received a call from Gerald,
16 and I think he asked me something about IT related, and he
17 mentioned to me from—if I invested into the deal, and my
18 answer to him was no, I did not. He mentioned to me that
19 he—he was expecting news in two weeks, that he purchased a lot
20 of warrants.

21 Q. What kind of warrants did he say he purchased?

22 A. DWAC W.

23 (Continued on next page)

051Cgar8

Lopez Torres - Direct

1 BY MS. HANFT:

2 Q. Where were you when he told you he was expecting news in
3 two weeks?

4 A. I was at a conference.

5 Q. Did he say what the news was?

6 A. I don't think during the call he was specific of the news.
7 It was my understanding that the result, either a decision to
8 merge.

9 Q. Did he tell you to do anything on that call?

10 A. He didn't tell me exactly what to do. He basically says
11 you buy a bunch -- I bought a bunch of warrants, I'm expecting
12 the news in two weeks. He was excited about it, so I went
13 ahead and purchased the warrants.

14 Q. How did you purchase the warrants?

15 A. I purchased through my phone.

16 MS. HANFT: I'm going to direct your attention to
17 Government Exhibit 703, which is now in evidence and the
18 parties have stipulated is a text message conversation.

19 Let's publish Government Exhibit 703.

20 Q. Who is this a conversation between?

21 A. Between Adrian Lopez and Gerald Shvartsman.

22 MR. BACH: Subject to the Court's ruling, we restate
23 our position for the record.

24 THE COURT: It's conditionally received.

25 (Government's Exhibit 703 received in evidence)

051Cgar8

Lopez Torres - Direct

1 MS. HANFT: The government offers Government Exhibit
2 703.

3 THE COURT: Conditionally received.

4 MS. HANFT: Mr. Bianco, can you publish Government
5 Exhibit 703.

6 Q. Mr. Lopez Torres, who is this a conversation between?

7 A. This is between Adrian Lopez and Gerald Shvartsman?

8 Q. What was going on in this conversation?

9 A. This is a conversation after the call that I had with
10 Gerald, basically texting that I loaded 100,000.

11 Q. What was the date of that when you told him that?

12 A. October 19, 2021.

13 Q. When you said loaded 100,000, what did you mean?

14 A. I placed an order for 100,000 warrants.

15 MS. HANFT: If we could go to the next row, row 2.

16 Q. Could you read that, sir.

17 A. I text him ticker DWACW.

18 Q. What did you mean by ticker DWACW?

19 A. If that was the ticker of the warrants that he purchased.

20 Q. What did he respond?

21 A. October 19, 2021.

22 Q. Row 4.

23 A. I'm in for 500,000, October 19, 2021.

24 Q. Let's read the next one, too.

25 A. My brother, 2M.

051Cgar8

Lopez Torres - Direct

1 Q. What did you understand that to mean?

2 A. 500,000 warrants or dollars.

3 Q. What is I'm in for 500,000?

4 A. That he's purchased 500,000.

5 Q. And my brother?

6 A. 2M.

7 Q. What did you understand that to mean?

8 A. 2 million warrants or \$2 million.

9 Q. Now turning to row 8.

10 MS. HANFT: I'm sorry. We skipped something. Could
11 you go up, Mr. Bianco, just where we were at row 6.

12 A. And my buddy, 10M.

13 Q. Did you know who that referred to?

14 A. The buddy, no.

15 MS. HANFT: Let's turn to row 8. If we could
16 highlight that text.

17 Q. What did you say to Gerald Shvartsman?

18 A. October 19, 2021.

19 Q. What did you say to him?

20 A. DWAC warrant, correct.

21 MS. HANFT: And then there's an attachment that the
22 government would offer, that I read in the stipulation, and
23 that's Government Exhibit 704.

24 Any objection? It's the attachment in that
25 conversation.

051Cgar8

Lopez Torres - Direct

1 MR. BACH: No, no objection.

2 MS. HANFT: Government offers Government Exhibit 704.
3 Maybe we can pull it up side by side, Mr. Bianco.

4 THE COURT: Received.

5 (Government's Exhibit 704 received in evidence)

6 Q. Is that the attachment you sent to Gerald Shvartsman?

7 A. Yes.

8 Q. Why did you send it?

9 A. Just to confirm it was the right ticker.

10 Q. And what was his response?

11 MS. HANFT: If we could toggle back to Government
12 Exhibit 703. Row 9.

13 A. October 19, 2021, correct.

14 MS. HANFT: We can take that down.

15 Q. Mr. Lopez Torres, do you recall learning at some point that
16 your investment had gone up?

17 A. Yes.

18 Q. Describe what happened.

19 A. So one day I wake up in the morning, I look at my phone, I
20 looked and saw the warrants went up.

21 Q. Which warrants?

22 A. The one that I purchased.

23 Q. And what did you do?

24 A. I sold them.

25 Q. Approximately how much money did you make?

051Cgar8

Lopez Torres - Direct

1 A. An estimated 350, plus or minus.

2 Q. When you say 350, plus or minus, 350 what?

3 A. \$350,000.

4 MS. HANFT: Let's turn back to Government Exhibit 703,
5 row 12.

6 Q. Please read the date, Mr. Lopez Torres.

7 A. October 21, 2021.

8 Q. And what did you write to Gerald Shvartsman on the 21st?

9 A. Thank you.

10 MS. HANFT: Scrolling down to the next row.

11 Q. Could you read that message, please?

12 A. Amount sold out.

13 Q. What did you mean by that?

14 A. That I sold all my warrants.

15 MS. HANFT: One row down, please, Mr. Bianco.

16 A. Thank you again.

17 Q. Why were you thanking him?

18 A. For sharing information with me.

19 Q. Please read rows 15 and 16 of this exhibit.

20 A. I'm happy for you. I will be waiting for my commission.

21 Q. Who are those messages from?

22 A. From Gerald Shvartsman to Adrian Lopez.

23 Q. I'm going to direct your attention to Government Exhibit
24 335.

25 MS. HANFT: Just to the witness and the parties.

O51Cgar8

Lopez Torres - Direct

1 This is pursuant to joint exhibit 3. The parties have
2 stipulated that Government Exhibit 335 is a business record.
3 The government offers Government Exhibit 335.

4 MR. BACH: Same basis subject to the previous
5 discussion.

6 THE COURT: 335 is received.

7 (Government's Exhibit 335 received in evidence)

8 MS. HANFT: Please publish Government Exhibit 335,
9 Mr. Bianco.

10 Q. What is this document, Mr. Lopez Torres?

11 A. This is a statement.

12 Q. What kind of statement?

13 A. Brokerage statement.

14 Q. Whose?

15 A. Mine.

16 Q. And what is Unique Reality Investments Incorporated?

17 A. My company.

18 MS. HANFT: Mr. Bianco, could you highlight for the
19 jury, beginning row 2 of page 5 through the fourth row of page
20 6.

21 Q. Did these, generally speaking, Mr. Lopez Torres, reflect
22 your purchases of DWAC warrants that you were describing?

23 A. That's correct, yes.

24 MS. HANFT: If you could please highlight the fifth
25 and sixth row on page 6, Mr. Bianco.

O51Cgar8

Lopez Torres - Direct

1 Q. Do these reflect the sale of those warrants after you
2 learned the merger was announced?

3 A. That's correct, yes, that day.

4 Q. Did you tell anyone else the information Gerald Shvartsman
5 shared with you?

6 A. Yes, I did.

7 Q. Who did you tell?

8 A. My dad.

9 Q. Why did you tell your dad?

10 A. We share common investments and I share with him.

11 MS. HANFT: I'm going to ask Mr. Bianco to pull up for
12 the parties Government Exhibit 701 and 701A pursuant to the
13 stipulation. The parties have stipulated to the authenticity
14 to these exhibits. The government would offer Government
15 Exhibits 701 and 701A.

16 MR. BACH: No objection.

17 THE COURT: Received.

18 (Government's Exhibits 701, 701A received in evidence)

19 MS. HANFT: Mr. Bianco, if you could pull up for the
20 witness Government Exhibit 701T.

21 Q. Mr. Lopez Torres, do you see Government Exhibit 701T?

22 A. Yes, I do.

23 Q. What is this?

24 A. A text message translation.

25 Q. And have you reviewed it?

O51Cgar8

Lopez Torres - Direct

1 A. Yes.

2 Q. Is the translation accurate?

3 A. Best my understanding, correct.

4 MS. HANFT: Government offers Government Exhibit 701T.

5 THE COURT: That's just the translation?

6 MS. HANFT: Yes, your Honor.

7 THE COURT: So this is as an aid to the jury or are
8 you offering it in evidence?

9 MS. HANFT: We'll offer it in evidence, your Honor.

10 THE COURT: Any objection?

11 MR. DRISCOLL: Just a clarifying question, 701 is a
12 pretty long exhibit. Is it the whole exhibit coming in? Can
13 we just admit the full 701?

14 MS. HANFT: No. We're not offering the full exhibit
15 right now.

16 MR. DRISCOLL: Subject to completeness, Judge, I think
17 the full exhibit should come in.

18 MR. BACH: In the interest of time, we'll go forward
19 with this now.

20 THE COURT: 701T is received and then I'll entertain
21 later whether more comes in under the Rule of Completeness.

22 Thank you, Mr. Bach.

23 (Government's Exhibit 701T received in evidence)

24 Q. Do you recognize this conversation, sir?

25 A. Yes, I do.

051Cgar8

Lopez Torres - Direct

1 Q. Who is it a conversation between?

2 A. Between me and my dad.

3 Q. What's the date of the conversation?

4 A. October 19, 2021.

5 Q. And could you please read the first four lines of the
6 messages here.

7 A. This is speculative. SPAC DWACW. Apparently they're going
8 to announce in two weeks a merge with Trump Media.

9 Q. Where did you get this information you were sending to your
10 father?

11 A. From Gerald.

12 Q. Gerald who?

13 A. Shvartsman.

14 Q. Why did you tell it to your father?

15 A. I felt like it was an investment opportunity.

16 MS. HANFT: Could we turn to the next row, 7 and 8.

17 Q. Could you read what you wrote to your father.

18 A. That's what Gerald told me. I will explain later.

19 MS. HANFT: Thank you. If we could scroll back out.

20 Q. Do you know if your -- sorry. What was your father's
21 response?

22 A. If it's with Trump Media, it would be really good because
23 it could explode big.

24 Q. And your response?

25 A. That's what he says.

051Cgar8

Lopez Torres - Direct

1 Q. Do you know what your father did after he received this
2 information?

3 A. I think he eventually purchased the warrants.

4 Q. Did he sell those warrants after the merger was announced?

5 A. That's correct, yes.

6 Q. Did you ever learn how much your father made?

7 A. My understanding was a rough estimate of \$1.4 million,
8 \$1.5 million.

9 MS. HANFT: The government is going to offer
10 Government Exhibit 370, which the parties have stipulated as a
11 business record. We don't need to put it up right now.

12 THE COURT: Any objection to it, Mr. Bach?

13 MR. BACH: Can you put that on my screen so I can see
14 what it is.

15 No objection.

16 THE COURT: Received.

17 (Government's Exhibit 370 received in evidence)

18 MR. BACH: We just object to the relevance.

19 MS. HANFT: It's the standing objection, we
20 understand.

21 THE COURT: This is received.

22 MS. HANFT: Thank you, your Honor.

23 We can take this down.

24 Q. Mr. Lopez Torres, are you testifying here today
25 voluntarily?

051Cgar8

Lopez Torres - Direct

1 A. No.

2 Q. Are you testifying because of an immunity order?

3 A. That's correct.

4 Q. Does that mean you've been ordered to testify?

5 A. That is correct.

6 Q. You have a lawyer to help you understand the lawyer?

7 A. Yes, I do.

8 Q. Under the order, what do you have to do?

9 A. Say the truth.

10 Q. And if you do that, what protection do you get?

11 A. None of my words used in court will be used against me.

12 Q. And do you get protection from prosecution in general or
13 just from the use of your words today?

14 A. Just from the use of my words today.

15 Q. What happens if you don't tell the truth?

16 MR. BACH: Objection.

17 THE COURT: Overruled.

18 A. Basically, I can go -- I can get arrested.

19 Q. Does the order protect you from prosecution if you lie
20 today?

21 A. No.

22 Q. Do you know where Gerald Shvartsman got the information he
23 shared with you?

24 A. I do not.

25 Q. And sir, have you returned the money you made as a result

051Cgar8

Lopez Torres - Direct

1 of the trades you described today?

2 A. No.

3 Q. And just one final topic. Did you tell anyone, aside from
4 your father, the information Gerald Shvartsman told you about
5 the upcoming Trump Media merger?

6 A. Yes.

7 Q. Who did you tell?

8 A. A friend.

9 Q. What was the friend's name?

10 A. Rameses.

11 MS. HANFT: I'm going to offer Government Exhibit 702
12 and 702A, which is the conversation.

13 MR. BACH: Objection.

14 THE COURT: Those are conditionally received.

15 (Government's Exhibits 702, 702A received in evidence)

16 MS. HANFT: If we could also pull up, before we
17 publish to the jury, Government Exhibit 702T.

18 Q. Sir, do you recognize 702T?

19 A. Yes.

20 Q. What is it?

21 A. It is a text message between Adrian and Rameses.

22 Q. Have you reviewed this translation?

23 A. Yes.

24 Q. Is the translation accurate?

25 A. Based on my understanding, yes.

O51Cgar8

Lopez Torres - Direct

1 MS. HANFT: The government offers 702T.

2 THE COURT: That's also conditionally received.

3 (Government's Exhibit 702T received in evidence)

4 MS. HANFT: Mr. Bianco, could you please publish both
5 exhibits to the jury.

6 Q. Mr. Lopez Torres, could you please read the first four
7 lines of 702T. What did you write to your friend, Rameses?

8 A. Supposedly DWAC. They're going to announce something big
9 in the next two weeks.

10 Q. You said DWAC, but what does it say in line 3?

11 A. DWACW.

12 Q. And where did you get that information that you were
13 telling Rameses?

14 A. From Gerald.

15 Q. Why did you tell him the information?

16 A. We shared information, potential opportunities, and yeah, I
17 share with him.

18 Q. Did you expect he would do anything with the information?

19 A. Buy them.

20 MS. HANFT: If we could keep going to line 5, what was
21 Ramse's response?

22 A. It's already on the market.

23 Q. What was your response?

24 A. Yes.

25 Q. If you could just read through the rest of the exhibit --

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Lopez Torres - Direct

1 THE COURT: Ms. Hanft, how much more do you have? We
2 told the jury 5:15 based on estimates we had received.

3 MS. HANFT: This is the end, your Honor. We're just
4 finishing this exhibit.

5 A. They are going to do a SPAC.

6 MS. HANFT: Mr. Bianco, if you can scroll out.

7 Q. If you could read through the end of the exhibit.

8 A. I just got the news. A friend put in \$200,000. Let me
9 stop and I will put in. I was driving. Ha ha ha. Attachment.

10 MS. HANFT: And then could we pull back up Government
11 Exhibit 702A.

12 Q. Is that the attachment that he sent to you?

13 A. That's correct.

14 Q. And what did you respond?

15 A. Yes.

16 Q. Please read row 17.

17 A. Supposedly Trump. Social media. It will come out through
18 there.

19 Q. And so, what information were you conveying to your friend
20 Rameses?

21 A. That there was a potential merge and it could be announced
22 in the next two weeks.

23 MS. HANFT: One moment, your Honor.

24 Nothing further, your Honor.

25 THE COURT: How much cross do you have, Mr. Bach?

051Cgar8

Lopez Torres - Cross

1 MR. BACH: Short.

2 CROSS-EXAMINATION

3 BY MR. BACH:

4 Q. Good afternoon, Mr. Lopez Torres.

5 A. Good afternoon.

6 Q. I'm Jonathan Bach and I represent Bruce Garelick.

7 A. Who's Bruce? Over here?

8 Q. Do you recognize Mr. Garelick?

9 A. No.

10 Q. You've never met him in person right?

11 A. No, not that I'm aware of.

12 Q. You had one video call with him sometime in July 2021;
13 correct?

14 A. A conference call, yes.

15 Q. And you don't remember what he said in that call; right?

16 A. Very vague. It was an investment opportunity. There was a
17 minimal amount to invest and there's going to be a lock period.
18 That's mostly of what I remember.

19 Q. Whatever he said, it wasn't enough to sway you to make the
20 investment at that time; correct?

21 A. Correct. At the time, I didn't really understand what was
22 being proposed, so --

23 Q. You didn't trade on any information that he provided;
24 correct?

25 A. Based on my understanding, no.

051Cgar8

Lopez Torres - Cross

1 Q. And that was in July, and did you understand at that time
2 he was trying to help organize a group of investors for Michael
3 Shvartsman to invest in DWAC?

4 A. I don't recall mentioning a group of investors, just here's
5 an investment opportunity and --

6 Q. And you turned that down at the time; correct?

7 A. Oh, yes. I did not move forward.

8 Q. So now let's talk about Gerald Shvartsman.

9 He was your main source of contact on this; correct?

10 A. That is correct.

11 Q. He was your employer; correct?

12 A. That is correct.

13 Q. He was the one that you knew and had the relationship with;
14 right?

15 A. That is correct.

16 Q. And when October rolled around, that was about six
17 months -- no. Maybe four months after you had that one brief
18 conversation with Mr. Garelick; right?

19 A. That's correct.

20 Q. And Mr. Garelick had nothing to do with that conversation
21 in October; right?

22 A. The one I had with Gerald?

23 Q. Yes.

24 A. That's correct.

25 Q. And you had nothing to do with Mr. Garelick in October;

051Cgar8

Lopez Torres - Cross

1 correct?

2 A. Based on my knowledge, no.

3 Q. And Mr. Gerald Shvartsman gave you a stock tip; correct?

4 A. He give me a ticker, yes.

5 Q. And he gave you a tip to invest in the stock market;
6 correct?

7 A. He shared information with me.

8 Q. Yes. And you have no idea where he got that information;
9 correct?

10 A. That is correct.

11 Q. You don't know who he was talking to or socializing with in
12 October, for example; correct?

13 A. Based on my understanding at the time, correct.

14 Q. And you placed your order after you received his
15 information; correct?

16 A. That is correct, yes.

17 Q. And did you understand this to be inside information when
18 you did this?

19 A. No, sir.

20 Q. Did you have any sense that this was lawful or unlawful at
21 the time?

22 MS. HANFT: Objection.

23 THE COURT: Overruled.

24 A. No, sir.

25 Q. And you went ahead and you placed an order; correct?

051Cgar8

Lopez Torres - Cross

1 A. I placed a buy order, correct.

2 MR. BACH: Could we pull up Government Exhibit 703,
3 which I think you were just shown. Could we go to where it --

4 Q. You write in line 1, loaded 100K.

5 Do you see that, sir?

6 A. Yes, I do.

7 Q. That means you had invested \$100,000; correct?

8 A. That I placed an order for the \$100,000.

9 Q. And then Gerald, your employer, responds; correct?

10 A. No, this is me. The ticker?

11 Q. I apologize, I'm going as fast as I can.

12 A. No worries. Line 2 is Adrian to Gerald.

13 Q. You see in line 4, Gerald writes to you, I'm in for 500K?

14 Do you see that?

15 A. Line 4, that is correct.

16 Q. Line 5, my brother, \$2 million; correct?

17 A. That is correct.

18 Q. And then in the next line, line 6, he says my buddy
19 \$10 million.

20 Do you see that?

21 A. That is correct.

22 Q. And I think you testified in response to Ms. Hanft's
23 questions that you don't know who that friend or buddy is;
24 correct?

25 A. That is correct, sir.

051Cgar8

Lopez Torres - Cross

1 Q. Did Gerald ever mention to you the name Anton Postolnikov?

2 A. I'm sorry?

3 Q. Did Gerald ever mention to you the name Anton Postolnikov?

4 A. No, sir.

5 MR. BACH: Let's take that down.

6 Q. And now, let's talk about a few days later on October 21st.

7 October 21st, you're at work at Source Furniture;
8 correct?

9 A. That's correct.

10 Q. That's Gerald's furniture store; correct?

11 A. Yes.

12 Q. And he shares with you another ticker symbol; correct?

13 A. That is correct.

14 Q. And the ticker symbol that Gerald shares with you on
15 October 21st is Bene; correct?

16 A. Yes.

17 Q. And Gerald told you that he had recently added to his own
18 position in Bene W?

19 A. That is correct.

20 Q. You assumed some kind of news would be coming out at some
21 point with respect to Bene; correct?

22 A. No, sir, not at the time.

23 Q. I'm not asking if news came out, I'm asking if you assumed
24 at or around that time that news would be coming out at some
25 point?

051Cgar8

Lopez Torres - Cross

1 A. No. No, sir.

2 Q. Let me show you what I'll mark for identification as
3 Defendant's Exhibit 3512-026. Take a look at this document,
4 Mr. Lopez, and I want you to focus on the second paragraph,
5 which says Bene at the top.

6 THE COURT: You want to highlight for him what you
7 want him to focus on.

8 MR. BACH: Sure. Could you highlight the second
9 paragraph and, in particular, where it begins, "I assumed."

10 Q. Do you see that sentence?

11 A. That's correct, yes.

12 Q. Do you recognize this document?

13 A. No, I do not.

14 Q. Do you see at the very top of the document, there's someone
15 named Michael M.?

16 A. That's correct.

17 Q. That's your lawyer, isn't it?

18 A. That is correct.

19 MS. HANFT: Your Honor, objection to how this is
20 proceeding.

21 THE COURT: Well, not to that question, but I think it
22 can be used to refresh recollection.

23 MR. BACH: Okay.

24 Q. Sir --

25 THE COURT: Or to impeach.

051Cgar8

Lopez Torres - Cross

1 MR. BACH: I want to do this in a -- okay.

2 Q. You wrote emails to a lawyer who forwarded them to the
3 U.S. Attorney's Office; correct?

4 A. That is correct.

5 Q. If you look at the top of this document, you'll see someone
6 who says, please see my client's email about --

7 MS. HANFT: Objection.

8 THE COURT: Overruled.

9 A. Yes, I do.

10 Q. These are two emails that you wrote; correct?

11 A. Two emails?

12 THE COURT: Material below, can you show --

13 A. I see two highlighted lines, correct.

14 Q. And these are emails that you wrote, sir; correct?

15 A. That is correct.

16 Q. And you wrote, I assumed some kind of news will come out at
17 some point without any specific timeframe; correct?

18 A. At the time of writing the email, that's correct. The date
19 that I purchased the Benny W., I did not expect any news that
20 date.

21 Q. At a later date, a potential merger was announced for Bene;
22 correct?

23 A. That same day?

24 Q. At a later date.

25 A. At a later date, yes.

051Cgar8

Lopez Torres - Cross

1 Q. On October 22nd, you texted your dad; correct?

2 A. Probably. I don't know. I don't remember.

3 Q. Let me show you Government Exhibit 701 at page 147.

4 MR. BACH: This is the one we asked to have subject to
5 completeness.

6 Can the government show page 147.

7 We offer pages 147 through 149 at this point.

8 THE COURT: Any objection, Ms. Hanft?

9 MS. HANFT: No objection, your Honor.

10 THE COURT: Received.

11 (Government's Exhibit 147 received in evidence)

12 Q. If you look at line 23, you have to forgive me, my Spanish
13 is terrible.

14 A. Of course.

15 MR. BACH: Could we publish this to the jury.

16 Q. Line 23, you text to your father, proxima potencial.

17 Do you see that?

18 A. Yes.

19 Q. What does that mean?

20 A. Next potential investment.

21 Q. This is on October 22nd; correct?

22 A. Yes.

23 Q. Two days after the DWAC merger has been announced; correct?

24 A. That is correct.

25 Q. And do you see, as you go down the page, it says Bene W.?

051Cgar8

Lopez Torres - Cross

1 A. That's correct.

2 Q. And that's Bene warrants; correct?

3 A. That's correct.

4 Q. If you go down to the next line, line 424, you write, quien
5 esta papa.

6 Do you see that?

7 A. Yes.

8 Q. And then you write -- again, forgive my Spanish.

9 A. No worries.

10 Q. La misma historia pero aun no se a anunciado.

11 What does that mean?

12 A. Same story. No news has come out yet.

13 Q. When you say same story, you mean same story as DWAC;
14 correct?

15 A. That is correct.

16 Q. The next line, line 426, you write, tengo que leer de ellos
17 pero es la misma cosa.

18 Do you see that?

19 A. That's correct.

20 Q. What does that mean?

21 A. Basically that I need to read more about the company, but
22 it seems to me that is the same thing as DWACW, yes.

23 MR. BACH: Keep going. The next line, can we see line
24 429. Can we see line 429. It.

25 MS. HANFT: It's not in evidence.

051Cgar8

Lopez Torres - Cross

1 Q. Here it is, 429. It says, eso en dijo Gerald ahora.

2 Do you see that?

3 A. Yes.

4 Q. What does that mean?

5 A. This is what Gerald told me now.

6 Q. This is information about Bene; correct?

7 A. Correct, a different company.

8 Q. A different company from DWAC; correct?

9 A. Correct.

10 Q. And Gerald is giving it to you; correct?

11 A. That is correct.

12 Q. Mr. Garelick never spoke to you about Bene; correct?

13 A. Correct.

14 Q. To your knowledge, he's not on the board of Bene; correct?

15 A. Bruce?

16 Q. Yeah.

17 A. No.

18 Q. You don't know where -- any reason why he would be the
19 source of any information about Bene, do you?

20 A. No, no source with Gerald.

21 THE COURT: Are we done Mr. Bach?

22 MR. BACH: Yes, one moment.

23 THE COURT: Okay.

24 MR. BACH: We'll stop here, Judge.

25 THE COURT: Anything further from the government?

051Cgar8

Lopez Torres - Cross

1 MS. HANFT: No, your Honor. Thank you.

2 THE COURT: You're excused as a witness.

3 (Witness excused)

4 Members of the jury, you're excused for the day.

5 Thank you very much for your kind attention. As a reminder,

6 we'll have breakfast for you available for you tomorrow

7 morning. Try to get here by 8:45 so we can start promptly at

8 9 o'clock. Don't talk about the case to anybody else and don't

9 do any research on the case.

10 All rise.

11 (Continued on next page)

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051Cgar8

Lopez Torres - Cross

1 (Jury not present)

2 THE COURT: The witness is excused and the parties can
3 be seated. I have a 5:30 and I'm sure you're all anxious to
4 get back to your offices and prepare for tomorrow. Just tell
5 me if there are other items I need to address from the
6 government before we start with testimony tomorrow, and then
7 I'm going to want to know who the government's witnesses are
8 tomorrow. Mr. Bach, I'm going to have the same question for
9 you.

10 Any topics we need to discuss?

11 MR. BACH: Not at the moment for us.

12 MS. HANFT: Not from the government right now.

13 THE COURT: Witnesses for tomorrow.

14 MS. HANFT: Give me one moment, your Honor.

15 Eric Swider, Michael D'Angelo, Ben Reed, Alex Monje,
16 Jeff Stith, Netanel Suissa, and Christian Isolda.

17 THE COURT: I'm going to want to hear from the
18 government in the morning about where we are in the case once
19 you get a sense of how we're doing in terms of timing and when
20 you expect the government will complete its case, but we can
21 discuss that in the morning, you can figure it out overnight.

22 MS. HANFT: Understood, your Honor. Thank you.

23 THE COURT: Have a good evening, everybody. See you
24 in the morning.

25 (Adjourned to May 2, 2024 at 9:00 a.m.)

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